10–10–00 Tuesday
Vol. 65 No. 196 Oct. 10, 2000
Pages 60093–60338

Federal Register

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WHO: Sponsored by the Office of the Federal Register.

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4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: October 17, 2000, at 9:00 a.m.

WHERE: Office of the Federal Register
Conference Room
800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

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Rules and Regulations

Federal Register
Vol. 65, No. 196
Tuesday, October 10, 2000

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 391 and 590

[Docket No. 00–025F]

RIN 0583–AC74

Increases in Fees for Meat, Poultry, and Egg Products Inspection Services—Fiscal Year (FY) 2001

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is increasing the fees that it charges meat and poultry establishments, egg products plants, importers, and exporters for providing voluntary inspection services, overtime and holiday inspection services, identification services, certification services, and laboratory services. These increases in fees reflect the national and locality pay raise for Federal employees (proposed 3.7 percent effective January 2001) and inflation. The Agency will make the increases in fees effective October 8, 2000. At this time, FSIS is not proposing to amend the fee for the Accredited Laboratory Program.

EFFECTIVE DATE: October 8, 2000.

FOR FURTHER INFORMATION CONTACT: For information concerning policy issues, contact Daniel Engeljohn, Ph.D., Director, Regulations Development and Analysis Division, Office of Policy, Program Development, and Evaluation, FSIS, U.S. Department of Agriculture, Room 112, Cotton Annex, 300 12th Street, SW, Washington, DC 20250–3700, (202) 720–5627, fax number (202) 690–0486.

For information concerning fee development, contact Michael B. Zimmerer, Director, Financial Management Division, Office of Management, FSIS, U.S. Department of Agriculture, Room 2130–S, 1400 Independence Avenue, SW., Washington, DC 20250–3700, (202) 720–3552.

SUPPLEMENTARY INFORMATION:

Background

The Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031 *et seq.*) provide for mandatory Federal inspection of meat and poultry slaughter and processing at official establishments and of egg products at official plants. FSIS bears the cost of mandatory inspection. Establishments and plants pay for inspection services performed on holidays or on an overtime basis.

In addition, under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*), FSIS provides a range of voluntary inspection, certification, and identification services to assist in the orderly marketing of various animal products and byproducts. These services include the certification of technical animal fats and the inspection of exotic animal products, such as antelope and elk. FSIS is required to recover the costs of voluntary inspection, certification, and identification services.

Under the Agricultural Marketing Act of 1946, FSIS also provides certain voluntary laboratory services that establishments and others may request the Agency to perform. Laboratory services are provided for four types of analytic testing: microbiological testing, residue chemistry tests, food composition tests, and pathology testing. FSIS must recover these costs.

Every year FSIS reviews the fees that it charges for providing overtime and holiday inspection services; voluntary inspection, identification, and certification services; and laboratory services. The Agency performs a cost analysis to determine whether the fees that it has established are adequate to recover the costs that it incurs in providing these services. In the Agency's analysis of projected costs for October 1, 2000 to September 30, 2001, the Agency has identified increases in the costs of these nonmandatory inspection services due specifically to the national and locality pay raise for Federal employees (proposed 3.7 percent effective January 2001) and inflation.

FSIS calculated the new fees by adding the projected increase in salaries and inflation for FY 2000 and FY 2001 to the actual cost of the services in FY 1999. The Agency calculated inflation to be 1.55% for FY 2000 and 1,90% for FY 2001. The Agency considered the costs that it will incur because of the pay raise in January 2001 and averaged its pay costs out over the entire FY 2001.

FSIS did not use the fees currently charged as a base for calculating the new fees for FY 2001 because the current fees are based on estimates of costs to the Agency for FY 1999 and FY 2000. The Agency now knows the actual cost of inspection services for FY 1999 and used the actual costs in calculating the new fees.

The current and new fees are listed by type of service in Table 1.

TABLE 1.—CURRENT AND NEW FEES—PER HOUR PER EMPLOYEE—BY TYPE OF SERVICE

Service	Previous rate	New rate
Base time	$37.88	$38.44
Overtime & holiday	39.76	41.00
Laboratory	58.52	60.04

The differing fee increase for each type of service is the result of the different amount that it costs FSIS to provide these three types of services. The differences in costs stem from various factors including different salary levels of the program employees who perform the services. See Table 2.

TABLE 2.—CALCULATIONS FOR THE DIFFERENT TYPES OF SERVICES

Base Time:	
Actual FY 1999 cost	$35.52
Inflation and salary increases	2.91
Adjustment for divisibility by quarter hours	.01
Total	$38.44
Overtime and Holiday Inspection Services:	
Actual FY 1999 cost	$37.88
Inflation and salary increases	3.10
Adjustment for divisibility by quarter hours	.02
Total	$41.00

TABLE 2.—CALCULATIONS FOR THE DIFFERENT TYPES OF SERVICES—Continued

Laboratory Services:	
Actual FY 1999 cost	$55.50
Inflation and salary increases	4.54
Total	$60.04

An increase in fees for egg products overtime and holiday inspection services recently became effective on July 30, 2000. However, FSIS is publishing a new fee because the Agency has moved to a FY basis for reviewing fees and is charging the same fee for meat, poultry, and egg products overtime and holiday inspection services. FSIS calculated the new fees based on the presumption that they would become effective at the beginning of FY 2001.

FSIS is exploring the possibility of proposing a three to five year plan of fee rate adjustments based on estimates of cost escalation.

The Agency must recover the actual cost of voluntary inspection services covered by this rule. These fee increases are essential to continued sound financial management of the Agency's costs. FSIS announces in its July 24, 2000 proposed rule (65 FR 45545) that it intended to implement the fee increases provided for in this final rule effective October 8. The Agency believes adequate notice has been given to affected parties. Accordingly, the Administrator has determined that these amendments should be effective less than 30 days after publication in the **Federal Register**. Therefore, the increases in fees will be effective October 8, 2000.

Proposed Rule and Comments

On July 24, 2000 FSIS published a proposed rule (65 FR 45545) increase the fees it charges for meat, poultry, and egg products voluntary inspection services. FSIS provided 30 days for public comment, ending on August 23, 2000.

The Agency received two comments from industry organizations opposing the increase in fees. The Agency addresses their specific objections.

Comment: The commenter stated that the fees increases, though moderate, are unnecessary because just one year ago FSIS imposed a 12.5% increase in voluntary program base rates and a 9% increase in overtime and holiday inspection services rates. Furthermore, these new rates are being proposed at a time when FSIS appropriations are at a record high and HACCP—which is supposed to result in inspection cost savings—has been implemented.

Response: The Agency did increase inspection fees for meat and poultry in a final rule published last December 28, 1999 [64 FR 72492] and more recently for egg products overtime and holiday inspection services in a final rule published on July 20, 2000 [65 FR 44948]. The actual percentage of increases last December was 2.3% for base time meat and poultry voluntary inspection, 7.93% increase for meat and poultry overtime and holiday inspection services, and 15.02% increase for meat and poultry laboratory services. However, the new increase in fees represents the raise in inspection costs since the promulgation of the two previous fee increases.

FSIS appropriations do not cover voluntary inspection services or overtime and holiday inspection services. Any cost savings that might be realized through more effective use of inspection resources in HACCP do not translate into lower expenses for voluntary inspection services or overtime and holiday inspection services.

Comment: The commenter takes exception to FSIS exploring the possibility of proposing a three to five year plan of rate adjustments when the Agency should be realizing inspection cost savings.

Response: FSIS is merely announcing that it is exploring the possibility of proposing a three to five year plan of rate adjustments. The Agency would not introduce such a plan without formally proposing it through rulemaking procedures.

Comment: The commenter maintains that the Agency should reconsider its proposed increase in fees after addressing global issues like inspection resource allocation.

Response: The allocation of inspection resources does not have a direct effect on the cost of holiday and overtime inspection services or voluntary inspection services.

Comment: The commenter suggests that the Agency should provide a detailed explanation of its proposed fee increases to allow for meaningful comment.

Response: The agency believes that it has presented adequate information to explain how the new increases in fees were arrived at.

Summary of the Final Rule

FSIS is amending 9 CFR 391.2 to increase the base time fee for providing meat and poultry voluntary inspection, identification, and certification services from $37.88 per hour per employee to $38.44 per hour per program employee. FSIS is also amending §§ 391.3, 590.126, and 590.128(a) to increase the rate for providing meat, poultry, and egg products overtime and holiday inspection services from $39.76 per hour per employee to $41.00 per hour per employee. In addition, FSIS is amending § 391.4 to increase the rate for laboratory services from $58.52 per hour per employee to $60.04 per hour per employee.

Executive Order 12866 and Regulatory Flexibility Act

Because this final rule has been determined to be not significant, the Office of Management and Budget (OMB) did not review it under Executive Order 12866.

The Administrator, FSIS, has determined that this final rule would not have a significant economic impact, as defined by the Regulatory Flexibility Act (5 U.S.C. 601), on a substantial number of small entities.

Small establishments and plants should not be affected adversely by the increases in fees because the new fee increases provided for reflect only a small increase in the costs currently borne by those entities that choose to use certain inspection services. These inspection services are generally sought by larger establishments and plants because of larger production volume, greater complexity and diversity in the products they produce, and the need for on-time delivery of large volumes of product by their clients-generally large commercial or institutional establishments.

Moreover, smaller establishments and plants are unlikely to use a significant amount of overtime and holiday inspection services. Establishments and plants that seek FSIS services are likely to have calculated that the incremental costs of overtime and holiday inspection services would be less than the incremental expected benefits of additional revenues they would realize from additional production.

Economic Effects

Under the new fees, the Agency expects to collect an estimated $106.2 million in revenues for FY 2001, compared to $103 million under the current fee structure.

The costs that industry would experience by the raise in fees are similar to other increases the industry faces due to inflation and wage increases.

The total volume of meat and poultry slaughtered under Federal inspection in 1998 was about 81 billion pounds. The

total volume of U.S. egg product production in 1998 was about 3.2 billion pounds. The increase in cost per pound of product associated with these proposed fees increases is $.00004. Even in competitive industries like meat, poultry, and egg products, this amount of increase in costs would have an insignificant impact on profits and prices.

The industry is likely to pass through a significant portion of the fee increase to consumers because of the inelastic nature of the demand curve facing these firms. Research has shown that consumers are unlikely to reduce demand significantly for meat and poultry products, including egg products, when prices increase. Huang estimates that demand would fall by .36 percent for a one percent increase in price (Haung, Kao S., A Complete System of U.S. Demand for Food. USDA/ERS Technical Bulletin No. 1821, 1993, p.24). Because of the inelastic nature of demand and the competitive nature of the industry, individual firms are not likely to experience any change in market share to response to an increase in inspection fees.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This final rule: (1) Preempts State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule. However, the administrative procedures specified in 9 CFR 306.5, 381.35, and 590.320 through 590.370, respectively, must be exhausted before any judicial challenge of the application of the provisions of this proposed rule, if the challenge involves any decision of an FSIS employee relating to inspection services provided under FMIA, PPIA, or EPIA.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this final rule, FSIS will announce and provide copies of this **Federal Register** publication in the *FSIS Constituent Update.* FSIS provides a weekly *FSIS Constituent Update* via fax to over 300 organizations and individuals. In addition, the update is available on line through the FSIS web page located at *http://www.fsis.usda.gov.* The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience than would be otherwise possible. For more information or to be added to the constituent fax list, fax your request to the Congressional and Public Affairs Office, at (202) 720–5704.

List of Subjects

9 CFR Part 391

Fees and charges, Government employees, Meat inspection, Poultry products.

9 CFR Part 590

Eggs and egg products, Exports, Food labeling, Imports.

For the reasons set forth in the preamble, FSIS is amending 9 CFR chapter III as follows:

PART 391—FEES AND CHARGES FOR INSPECTION AND LABORATORY ACCREDITATION

1. The authority citation for part 391 continues to read as follows:

Authority: 7 U.S.C. 138f; 7 U.S.C. 394, 1622 and 1624; 21 U.S.C. 451 *et. seq.*; 21 U.S.C. 601–695; 7 CFR 2.18 and 2.53.

2. Sections 391.2, 391.3, and 391.4 are revised to read as follows:

§ 391.2 Base time rate.

The base time rate for inspection services provided pursuant to §§ 350.7, 351.8, 351.9, 352.5, 354.101, 355.12, and 362.5 is $38.44 per hour per program employee.

§ 391.3 Overtime and holiday rate.

The overtime and holiday rate for inspection services provided pursuant to §§ 307.5, 350.7, 351.8, 351.9, 352.5, 354.101, 355.12, 362.5 and 381.38 is $41.00 per hour per program employee.

§ 391.4 Laboratory services rate.

The rate for laboratory services provided pursuant to §§ 350.7, 351.9, 352.5, 354.101, 355.12, and 362.5 is $60.44 per hour per program employee.

PART 590—INSPECTION OF EGGS AND EGG PRODUCTS (EGG PRODUCTS INSPECTION ACT)

3. The authority citation for part 590 continues to read as follows:

Authority: 21 U.S.C. 1031–1056.

4. Section 590.126 is revised to read as follows:

§ 590.126 Overtime inspection service.

When operations in an official plant require the services of inspection personnel beyond their regularly assigned tour of duty on any day or on a day outside the established schedule, such services are considered as overtime work. The official plant must give reasonable advance notice to the inspector of any overtime service necessary and must pay the Agency for such overtime at an hourly rate of $41.00.

5. In § 590.128, paragraph (a) is revised to read as follows:

§ 590.128 Holiday inspection service.

(a) When an official plant requires inspection service on a holiday or a day designated in lieu of a holiday, such service is considered holiday work. The official plant must, in advance of such holiday work, request the inspector in charge to furnish inspection service during such period and must pay the Agency for such holiday work at an hourly rate of $41.00.

* * * * *

Done at Washington, DC, on: October 3, 2000.

Thomas J. Billy,

Administrator.

[FR Doc. 00–25945 Filed 10–4–00; 3:37 pm]

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DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Parts 563b and 575

[No. 2000–56]

RIN 1550–AB24

Repurchases of Stock by Recently Converted Savings Associations, Mutual Holding Company Dividend Waivers, Gramm-Leach-Bliley Act Changes

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Interim final rule; extension of comment period.

SUMMARY: The Office of Thrift Supervision (OTS) is extending the

comment period until November 9, 2000 for its interim rule with request for comments regarding repurchases of stock by recently converted savings associations, mutual holding company dividend waivers, and certain changes resulting from the passage of the Gramm-Leach-Bliley Act of 1999, published on July 12, 2000.

DATES: Comments must be received by November 9, 2000.

ADDRESSES: *Mail:* Send comments to Manager, Dissemination Branch, Information Management and Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention Docket No. 2000–56.

Delivery: Hand deliver comments to the Guard's Desk, East Lobby Entrance, 1700 G Street, NW., from 9:00 a.m. to 4:00 p.m. on business days, Attention Docket No. 2000–56.

Facsimiles: Send facsimile transmissions to FAX Number (202) 906–7755, Attention Docket No. 2000–56; or (202) 906–6956 (if comments are over 25 pages).

E-Mail: Send e-mails to ''public.info@ots.treas.gov'', Attention Docket No. 2000–56, and include your name and telephone number.

Public Inspection: Interested persons may inspect comments at the Public Reference Room, 1700 G St. NW., from 10:00 a.m. until 4:00 p.m. on Tuesdays and Thursdays or obtain comments and/or an index of comments by facsimile by telephoning the Public Reference Room at (202) 906–5900 from 9:00 a.m. until 5:00 on business days. Comments and the related index will also be posted on the OTS Internet Site at ''www.ots.treas.gov''.

FOR FURTHER INFORMATION CONTACT: David A. Permut, Counsel (Business and Finance) (202) 906–7505, Business Transactions Division, Chief Counsel's Office; Timothy P. Leary, Counsel (Banking and Finance) (202) 906–7170, Regulations and Legislation Division, Chief Counsel's Office; Mary Jo Johnson, Project Manager, (202) 906–5739, Supervision Policy, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: The proposed rule and interim final rule, published in the **Federal Register** on July 12, 2000 (65 FR 43092 and 43088), indicated that public comments were to be submitted to the OTS no later than October 10, 2000. OTS has received a request for an extension of the comment period to accommodate the views of a number of mutual institution managers who will be meeting in the next 30 days. In order to afford the public adequate time to comment, the OTS has determined to extend the comment period for 30 days to accommodate this request. Therefore, the comment period is hereby extended until November 9, 2000.

Dated: October 4, 2000.

By the Office of Thrift Supervision.

Ellen Seidman,

Director.

[FR Doc. 00–25944 Filed 10–6–00; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket No. 970404078–0176—02; I.D. 091100G]

RIN 0638-AE41

Thunder Bay National Marine Sanctuary and Underwater Preserve Regulations; Correction and Announcement of Effective Date

AGENCY: Marine Sanctuaries Division (MSD), Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Correction to final regulations and announcement of effective date.

SUMMARY: This document corrects the final regulations that were published in the **Federal Register** on Thursday, June 22, 2000, (65 FR 39042), and announces an effective date for them of September 25, 2000. The regulations implement the designation of the Thunder Bay National Marine Sanctuary and Underwater Preserve which is located in western Lake Huron in State of Michigan waters.

DATES: The final regulations published at 65 FR 39042 (June 22, 2000) and the corrections made by this document are effective September 25, 2000.

FOR FURTHER INFORMATION CONTACT: Ms. Ellen Brody, (734) 741-2270.

SUPPLEMENTARY INFORMATION:

Background

This document corrects the final regulations implementing the designation of the Thunder Bay National Marine Sanctuary and Underwater Preserve, which encompasses an area of the State of Michigan waters over and surrounding Thunder Bay, and the submerged lands thereunder including the Bay, in western Lake Huron. The **Federal Register** document publishing those regulations also contained the Designation Document and summarized the final management plan for the Sanctuary. The Designation Document sets forth the geographic area included within the Sanctuary, the characteristics of the area that give it conservation, recreational, ecological, historical, research, educational, or esthetic value, and the type of activities subject to regulation. The management plan details the goals and objectives, management responsibilities, research activities, interpretive and educational programs, and enforcement activities of the area. As stated in the preamble to the final rule, the regulations become effective after the close of a review period of 45 days of continuous session of Congress beginning on the day on which the final rule was published unless the Governor of the State of Michigan certifies to the Secretary of Commerce that the designation or any of its terms is unacceptable, in which case the designation or any unacceptable terms shall not take effect. The Congressional review period ended on September 24, 2000, without the Governor of the State of Michigan certifying to the Secretary of Commerce that the designation or any of its terms is unacceptable. Accordingly, the designation of the Sanctuary and the regulations implementing that designation became effective on September 25, 2000. The Secretary of Commerce intends to sign the Designation Document for the Sanctuary on October 7, 2000. This **Federal Register** document announces the effective date of the designation and for the regulations implementing that designation as September 25, 2000. This document also corrects, effective September 25, 2000, two errors in those regulations.

Need For Correction

Because of the omission of asterisks when revising the term ''Sanctuary resource'' in § 922.3 of 15 CFR part 922, ''Definitions'', all terms were inadvertently deleted except for the revised term ''Sanctuary resource''. There is a need to restore the deleted terms. Also in § 922.50 of 15 CFR part 922, the first paragraph following paragraph (a)(1)(iii) was inadvertently designated as paragraph (b) instead of as paragraph (a)(2). This needs to be corrected.

Correction of Publication

Accordingly, the publication on June 22, 2000, of the final regulations implementing the designation of the

Thunder Bay National Marine Sanctuary and Underwater Preserve, which were the subject of FR Doc. 00-15638, (65 FR 39042), is corrected as follows:

§ 922.3 [Corrected]

1. On page 39055, in the first column, amendatory instruction 3 is corrected to read as follows:

3. Section 922.3 is amended by revising the definition for ''Sanctuary resource'' to read as follows:

2. On page 39055, beginning in the first column, in § 922.3, add five asterisks before and after the definition of ''Sanctuary resource''.

§ 922.50 [Corrected]

3. On page 39056, in the third column, in § 922.50, correct the paragraph designation (b) to read (a)(2).

Dated: October 4, 2000.

Margaret A. Davidson,

Acting Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 00–25938 Filed 10–4–00; 1:57 pm]

BILLING CODE 3510–08–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

New Animal Drugs; Change of Sponsor Name and Address

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor name and address for Rhone-Poulenc, Inc.

DATES: This rule is effective October 10, 2000.

FOR FURTHER INFORMATION CONTACT: Norman J. Turner, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0214.

SUPPLEMENTARY INFORMATION: Rhone-Poulenc, Inc., P.O. Box 125, Black Horse Lane, Monmouth Junction, NJ 08852, has informed FDA of a change of sponsor name and address to Aventis Animal Nutrition, Inc., 3480 Preston Ridge Rd., suite 650, Alpharetta, GA 30005–8891. Accordingly, the agency is amending the regulations in 21 CFR 510.600(c) to reflect the change of sponsor name and address.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows: **Authority:** 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

2. Section 510.600 is amended in the table in paragraph (c)(1) by removing the entry for ''Rhone-Poulenc, Inc.'' and alphabetically adding an entry for ''Aventis Animal Nutrition, Inc.'' and in the table in paragraph (c)(2) by revising the entry for ''011526'' to read as follows:

§ 510.600Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * * * *	
Aventis Animal Nutrition, Inc., 3480 Preston Ridge Rd., suite 650, Alpharetta, GA 30005–8891	011526
* * * * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * * * *	
011526	Aventis Animal Nutrition, Inc., 3480 Preston Ridge Rd., suite 650, Alpharetta, GA 30005–8891
* * * * * * *	

Dated: September 28, 2000.

Claire M. Lathers,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 00–25965 Filed 10–6–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 872

[Docket No. 98N–0753]

Dental Products Devices; Reclassification of Endosseous Dental Implant Accessories

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is reclassifying the manually powered drill bits, screwdrivers, countertorque devices, placement and removal tools, laboratory pieces used for fabrication of dental prosthetics, trial abutments, and other manually powered endosseous dental implant accessories from class III to class I. These devices are intended to aid in the placement or removal of endosseous dental implants and abutments, prepare the site for placement of endosseous dental implants or abutments, aid in the fitting of endosseous dental implants or abutments, aid in the fabrication of dental prosthetics, and be used as an accessory with endosseous dental implants when tissue contact will last less than an hour. FDA is also exempting these devices from premarket notification. This reclassification is on the Secretary of Health and Human Services' own initiative based on new information. This action is being taken under the Federal Food, Drug, and Cosmetic Act (the act), as amended by the Medical Device Amendments of 1976 (the 1976 amendments), the Safe Medical Devices Act of 1990 (the SMDA), and the Food and Drug Administration Modernization Act of 1997 (FDAMA).

DATES: This rule is effective November 9, 2000.

FOR FURTHER INFORMATION CONTACT: Angela Blackwell, Center for Devices and Radiological Health (HFZ–480), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–827–5283.

SUPPLEMENTARY INFORMATION:

I. Background

The act (21 U.S.C. 301 *et seq.*), as amended by the 1976 amendments (Public Law 94–295), the SMDA (Public Law 101–629), and FDAMA (Public Law 105–115), established a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the act (21 U.S.C. 360c) established three categories (classes) of devices, depending on the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are class I (general controls), class II (special controls), and class III (premarket approval).

Under section 513 of the act, devices that were in commercial distribution before May 28, 1976 (the date of enactment of the amendments), generally referred to as preamendments devices, are classified after FDA has: (1) Received a recommendation from a device classification panel (an FDA advisory committee); (2) published the panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. FDA has classified most preamendments devices under these procedures.

Devices that were not in commercial distribution prior to May 28, 1976, generally referred to as postamendments devices, are classified automatically by statute (section 513(f) of the act) into class III without any FDA rulemaking process. Those devices remain in class III and require premarket approval, unless and until: (1) The device is reclassified into class I or II; (2) FDA issues an order classifying the device into class I or II in accordance with section 513(f)(2) of the act, as amended by FDAMA; or (3) FDA issues an order finding the device to be substantially equivalent, under section 513(i) of the act, to a predicate device that does not require premarket approval. The agency determines whether new devices are substantially equivalent to previously offered devices by means of premarket notification procedures in section 510(k) of the act (21 U.S.C. 360(k)) and 21 CFR part 807 of the regulations.

A preamendments device that has been classified into class III may be marketed, by means of premarket notification procedures, without submission of a premarket approval application (PMA) until FDA issues a final regulation under section 515(b) of the act (21 U.S.C. 360e(b)) requiring premarket approval.

Reclassification of classified preamendments devices is governed by section 513(e) of the act. This section provides that FDA may, by rulemaking, reclassify a device (in a proceeding that parallels the initial classification proceeding) based upon ''new information.'' The reclassification can be initiated by FDA or by the petition of an interested person. The term ''new information,'' as used in section 513(e) of the act, includes information developed as a result of a reevaluation of the data before the agency when the device was originally classified, as well as information not presented, not available, or not developed at that time. (See, e.g., *Holland Rantos* v. *United States Department of Health, Education, and Welfare*, 587 F.2d 1173, 1174 n.1 (D.C. Cir. 1978); *Upjohn* v. *Finch*, 422 F.2d 944 (6th Cir. 1970); *Bell* v. *Goddard*, 366 F.2d 177 (7th Cir. 1966).)

Reevaluation of the data previously before the agency is an appropriate basis for subsequent regulatory action where the reevaluation is made in light of newly available regulatory authority (see *Bell* v. *Goddard*, supra, 366 F.2d at 181; *Ethicon, Inc.* v. *FDA*, 762 F. Supp. 382, 389–91 (D.D.C. 1991)), or in light of changes in ''medical science.'' (See *Upjohn* v. *Finch*, supra, 422 F.2d at 951.) Regardless of whether data before the agency are past or new data, the ''new information'' on which any reclassification is based is required to consist of ''valid scientific evidence,'' as defined in section 513(a)(3) of the act and 21 CFR 860.7(c)(2). (See, e.g., *General Medical Co.* v. *FDA*, 770 F.2d 214 (D.C. Cir. 1985); *Contact Lens Assoc.* v. *FDA*, 766 F.2d 592 (D.C. Cir.), *cert. denied*, 474 U.S. 1062 (1985). FDA relies upon ''valid scientific evidence'' in the classification process to determine the level of regulation for devices. For the purpose of reclassification, the valid scientific evidence upon which the agency relies must be publicly available. Publicly available information excludes trade secret and/or confidential commercial information, e.g., the contents of a pending PMA. (See section 520(c) of the act (21 U.S.C. 360j(c).)

FDAMA added a new section 510(l) to the act. New section 510(l) of the act provides that a class I device is exempt from the premarket notification requirements under section 510(k) of the act, unless the device is intended for a use which is of substantial importance in preventing impairment of human health or it presents a potential unreasonable risk of illness or injury. Hereafter, these are referred to as ''reserved criteria.'' FDA has considered the endosseous dental implant accessories in accordance with the reserved criteria and determined that

the devices do not require premarket notification. Such an exemption permits manufacturers to introduce into commercial distribution generic types of devices without first submitting a premarket notification to FDA.

II. Regulatory History of the Device

In the **Federal Register** of October 7, 1998 (63 FR 53859), FDA proposed to reclassify the manually powered drill bits, screwdrivers, countertorque devices, placement and removal tools, laboratory pieces used for fabrication of dental prosthetics, trial abutments, and other manually powered endosseous dental implant accessories from class III to class I. These devices are intended to aid in the placement or removal of endosseous dental implants and abutments, prepare the site for placement of endosseous dental implants or abutments, aid in the fitting of endosseous dental implants or abutments, aid in the fabrication of dental prosthetics, and be used as an accessory with endosseous dental implants when tissue contact will last less than 1 hour. Interested persons were given until January 5, 1999, to comment on the proposed regulation. FDA received no comments on the proposed rule.

III. Summary of Final Rule

FDA is reclassifying the manually powered drill bits, screwdrivers, countertorque devices, placement and removal tools, laboratory pieces used for fabrication of dental prosthetics, trial abutments, and other manually powered endosseous dental implant accessories from class III to class I. These devices are intended to aid in the placement or removal of endosseous dental implants and abutments, prepare the site for placement of endosseous dental implants or abutments, aid in the fitting of endosseous dental implants or abutments, aid in the fabrication of dental prosthetics, and be used as an accessory with endosseous dental implants when tissue contact will last less than 1 hour. These devices do not have a history of risks associated with them. FDA believes that the manufacturers' adherence to current good manufacturing practices in the quality system regulation will provide reasonable assurance of the safety and effectiveness of these devices. FDA, therefore, believes that class I would provide reasonable assurance of safety and effectiveness. FDA is also exempting the devices from the premarket notification requirements.

Therefore, under section 513 of the act, FDA is adopting the assessment of the risks to public health stated in the proposed rule published on October 7, 1998. Furthermore, FDA is issuing a final rule that revises part 872 (21 CFR part 872) in subpart D to add § 872.3980, thereby reclassifying the endosseous dental implant accessories, from class III into class I.

IV. Environmental Impact

The agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

V. Analysis of Impacts

FDA has examined the impacts of the final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612 (as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Public Law 104–121)), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this final rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the final rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because the final rule reclassifying these devices from class III to class I will relieve all manufacturers of the devices of the cost of complying with the premarket approval requirements in section 513 of the act, it will impose no significant economic impact on any small entities, and it may permit small potential competitors to enter the marketplace by lowering their costs. The agency therefore certifies that the final rule will not have a significant economic impact on a substantial number of small entities. In addition, this final rule will not impose costs of $100 million or more on either the private sector or State, local, and tribal governments in the aggregate and, therefore, a summary statement of analysis under section 202(a) of the Unfunded Mandates Reform Act of 1995 is not required.

VI. Paperwork Reduction Act of 1995

This final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

VII. Federalism

FDA has analyzed this final rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule does not contain policies that have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the agency has concluded that the rule does not contain policies that have federalism implications as defined in the order and, consequently, a federalism summary impact statement is not required.

List of Subjects in 21 CFR Part 872

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act, and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 872 in subpart D is amended as follows:

PART 872—DENTAL DEVICES

1. The authority citation for 21 CFR part 872 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

2. Section 872.3980 is added to subpart D to read as follows:

§ 872.3980 Endosseous dental implant accessories.

(a) *Identification.* Endosseous dental implant accessories are manually powered devices intended to aid in the placement or removal of endosseous dental implants and abutments, prepare the site for placement of endosseous dental implants or abutments, aid in the fitting of endosseous dental implants or abutments, aid in the fabrication of dental prosthetics, and be used as an accessory with endosseous dental implants when tissue contact will last less than 1 hour. These devices include drill bits, screwdrivers, countertorque devices, placement and removal tools, laboratory pieces used for fabrication of dental prosthetics, and trial abutments.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

Dated: September 26, 2000.

Linda S. Kahan, Deputy Director for Regulations Policy center for Devices and Radiological Health.

[FR Doc. 00–25811 Filed 10–6–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF JUSTICE

28 CFR Part 0

[AG Order No. 2328–2000]

Delegation of Authority: Settlement Authority

AGENCY: Department of Justice

ACTION: Final rule.

SUMMARY: This rule delegates to the directors and commissioners of specified components of the Department of Justice authority to settle administrative claims presented pursuant to the Federal Tort claims Act (FTCA), where the amount of the settlement does not exceed $50,000. Currently, the directors and commissioners of the Bureau of Prisons, Federal Prison Industries, Immigration and Naturalization Service, Marshals Service, and the Drug Enforcement Administration have authority to settle FTCA claims not exceeding $10,000. This rule will alert the general public to the new authority of these officials and is being codified in the Code of Federal Regulations to provide a permanent record of this delegation.

EFFECTIVE DATE: October 10, 2000.

FOR FURTHER INFORMATION CONTACT: Jeffrey Axelrad, Director, Torts Branch, Civil Division, U.S. Department of Justice, P.O. Box 888, Benjamin Franklin Station, Washington, DC 20044, (202) 616–4400.

SUPPLEMENTARY INFORMATION: This rule has been issued to delegate settlement authority to various Department of Justice officials. It is a matter solely related to the division of responsibility within the Department of Justice. It relates to matters of agency policy, management, or personnel, and is therefore exempt from the usual requirements of prior notice and comment, and a 30-day delay in the effective date. See 5 U.S.C. 553(a)(2), (b)(A).

Executive Order 12866

This rule falls within a category of actions that the Office of Management and Budget (OMB) has determined do not constitute ''significant regulatory actions'' under section 3(f) of Executive Order 12866 and, accordingly, was not reviewed by OMB.

Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, the Department of Justice has determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed this regulation and, by approving it, certifies that this regulation will not have a significant economic impact upon a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804.

This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Plain Language Instructions

We try to write clearly. If you can suggest how to improve the clarity of these regulations, call or write Jeffrey Axelrad at the address and telephone number given above.

List of Subjects in 28 CFR Part 0

Authority delegations (government agencies), Claims.

Accordingly, Part 0 of Title 28 of the Code of Federal Regulations is amended as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT

1. The authority citation for Part 0 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515–519.

2. Section 0.172 of Part 0, Subpart Y, is amended by revising paragraph (a) to read as follows:

§ 0.172 Authority: Federal tort claims.

(a) The Director of the Bureau of Prisons, the Commissioner of Federal Prison Industries, the Commissioner of the Immigration and Naturalization Service, the Director of the United States Marshals Service, and the Administrator of the Drug Enforcement Administration shall have authority to adjust, determine, compromise, and settle a claim involving the Bureau of Prisons, Federal Prison Industries, the Immigration and Naturalization Service, the United States Marshals Service, and the Drug Enforcement Administration, respectively, under section 2672 of title 28, United States Code, relating to the administrative settlement of Federal tort claims, if the amount of a proposed adjustment, compromise, settlement, or award does not exceed $50,000. When, in the opinion of one of those officials, such a claim pending before him presents a novel question of law or a question of policy, he shall obtain the advice of the Assistant Attorney General in charge of the Civil Division before taking action on the claim.

* * * * *

Dated: October 2, 2000.

Janet Reno,

Attorney General.

[FR Doc. 00–25904 Filed 10–6–00; 8:45 am]

BILLING CODE 4410–12–M

SELECTIVE SERVICE SYSTEM

32 CFR Part 1615

Additional Methods of Selective Service Registration

AGENCY: Selective Service System (SSS).

ACTION: Final rule; technical amendment.

SUMMARY: In accordance with Proclamation 7275 of February 22, 2000, this Final Rule amends the Administration of Registration rules by providing additional methods of registering with the Selective Service System. Proclamation 7275 amended Proclamation 4771 to allow for additional methods of registration. These methods include registration on

the Selective Service Internet web site, telephonic registration, registration on approved Government forms, including the Selective Service reminder mailback card, and registration through school registrars. These amendments will reduce a burden on the public by informing it of the additional registration methods prescribed by the Director of Selective Service.

DATES: Effective November 9, 2000.

FOR FURTHER INFORMATION CONTACT: Rudy Sanchez, Office of the General Counsel, Selective Service System, 1515 Wilson Boulevard, Arlington, VA 22209–2425. Telephone (703) 605–4071.

SUPPLEMENTARY INFORMATION: The Military Selective Service Act (Act) requires that certain males register with the Selective Service System. 50 U.S.C. App. 451 *et seq.* The time, place and manner of registration is to be determined by proclamation of the President and by rules and regulations. 50 U.S.C. App. 453(a). The President is permitted to delegate the authority to issue rules and regulations under the Act. 50 U.S.C. App. 460(c). On October 12, 1971, E.O. 11623 was signed delegating the authority to issue rules and regulations under the Military Selective Service Act to the Director of the Selective Service System. Proclamation 4771 of July 2, 1980, provides for individuals to comply with the registration requirement of the Military Selective Service Act by completing a Registration Card at a classified Post Office.

This Proclamation was amended by Proclamation 7275, February 22, 2000 (65 FR 9199, February 24, 2000), to provide additional means to comply with the registration requirement. The rules are being amended to reflect additional registration methods prescribed by the Director of Selective Service as authorized by Proclamation 7275. The technical amendments to the rules on registration and the duty to register will inform the public about the various means to comply with the registration requirement.

The SSS considers this rule (32 CFR Part 1615) to be a procedural rule which is exempt from the notice and comment under 5 U.S.C. 533(b)(3)(A). This rule is not a significant rule for the purpose of Executive Order 12866 and has not been reviewed by the Office of Management and Budget. As required by the Regulatory Flexibility Act, SSS certifies that these regulatory amendments will not have a significant impact on small business entities.

List of Subjects in 32 CFR Part 1615

Selective Service System.

For the reason set forth in the preamble amend part 1615 of title 32 of the Code of Federal Regulations as follows:

PART 1615—ADMINISTRATION OF REGISTRATION

1. The authority citation for part 1615 is revised to read as follows:

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*; E.O. 11623, 36 FR 19963, 3 CFR, 1971–1975 Comp., p. 614, as amended by E.O. 12608, 52 FR 34617, 3 CFR, 1987 Comp., p. 245.

2. Amend § 1615.1 to revise paragraph (a)(1), the first sentence of paragraph (a)(2), and the last sentence of paragraph (b), and to add paragraph (c) to read as follows:

§ 1615.1 Registration.

(a) * * *

(1) Completing a registration card or other method of registration prescribed by the Director of Selective Service by a person required to register; and

(2) The recording of the registration information furnished by the registrant in the records (master computer file) of the Selective Service System. * * *

(b) * * * If the registrant does not receive the verification notice within 90 days after he completed a method of registration prescribed by the Director, he shall advise in writing the Selective Service System, P.O. Box 94638, Palatine, IL 60094–4638.

(c) The methods of registration prescribed by the Director include completing a Selective Service Registration Card at a classified Post Office, registration on the Selective Service Internet web site (http://www.sss.gov), telephonic registration, registration on approved Federal and State Government forms, registration through high school and college registrars, and Selective Service remainder mailback card.

3. Amend § 1615.4 to remove the period at the end of the introductory text and add a colon in its place and to revise paragraph (a) and the first sentence of paragraph (b) to read as follows:

§ 1615.4 Duty of persons required to register.

* * * * *

(a) To complete the registration process by a method prescribed by the Director of Selective Service and to record thereon his name, date of birth, sex, Social Security Account Number (SSAN), current mailing address, permanent residence, telephone number, date signed, and signature, if requested; and (b) To submit for inspection, upon request, evidence of his identity to a person authorized to accept the registration information.

* * * *

Gil Coronado,

Director.

[FR Doc. 00–25725 Filed 10–6–00; 8:45 am]

BILLING CODE 8015–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NC–087–9939; FRL–6881–1]

Approval and Promulgation of State Plans—North Carolina: Approval of Revisions to the North Carolina State Implementation Plan; Technical Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; technical correction.

SUMMARY: The United States Environmental Protection Agency (EPA) published in the **Federal Register** on November 10, 1999, a document approving revisions to clarify rules for the control of particulate emissions, add requirements for expedited permit processing, revise the Division name and address, and amend case-by-case MACT language. The State of North Carolina, through the North Carolina Department of Environment and Natural Resources (NCDENR) submitted these miscellaneous revisions to the North Carolina State Implementation Plan (SIP). The revisions are being clarified and corrected to add and revise entries that were inadvertently excluded in the **Federal Register** document.

EFFECTIVE DATE: This correction is effective on October 10, 2000.

FOR FURTHER INFORMATION CONTACT: Gregory Crawford at (404) 562–9046, crawford.gregory@epa.gov.

SUPPLEMENTARY INFORMATION: The November 10, 1999 (64 FR 61213–61217) document included amendatory language in the third full paragraph of the third column on page 61215 that reads ''Section 52.1770 (c) is amended by revising the entries for Sections 2D Air Pollution Control Requirements and 2Q Air Quality Permit Requirements.'' Entries .0105, .0540, .0312, .0313 and .0607 cannot be revised, but must be added to the table under Subchapters 2D Air Pollution Control Requirements and 2Q Air Quality Permit Requirements. Entries .0104, .0515, .0938, .0108, .0313, and .0607 were not

displayed in the table and are being added under the headings Subchapters 2D Air Pollution Control Requirements and 2Q Air Quality Permit Requirements. This document corrects these deficiencies.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedures are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is such good cause for making today's rule final without prior proposal and opportunity for comment because we are merely correcting an incorrect citation in a previous action. Thus, notice and public procedure are unnecessary.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule merely corrects an incorrect citation in a previous action, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely corrects a citation in a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act (CAA). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This technical correction action does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, we have taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the Executive Order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act (CRA), 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. As stated previously, we made such a good cause finding, including the reasons therefore and established an effective date of October 10, 2000. We will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This correction to the North Carolina SIP table is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Dated: August 17, 2000.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

Chapter I, title 40, *Code of Federal Regulations,* is amended as follows:

PART 52—[CORRECTED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart II—North Carolina [Corrected]

2. Section 52.1770, the table in paragraph (c) is amended by:

A. Adding entries .0105, .0540 under the heading Subchapter 2D Air Pollution Control Requirements and entries .0312, .0313, .0607 under the heading Subchapter 2Q Air Quality Permit Requirements.

B. Revising entries .0101, .0104, .0202, .0302, .0506, .0507, .0508, .0509, .0510, .0511, .0513, .0514, .0515, .0521, .0531, .0914, .0927, .0938, .0953 (two entries), .1902, .1903 under the heading Subchapter 2D Air Pollution Control Requirements and .0101, .0103, .0108, .0207, .0306, .0307, .0805, .0806, .0807 under the heading Subchapter 2Q Air Quality Permit Requirements.

The additions and revisions read as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) EPA approved regulations.

EPA APPROVED NORTH CAROLINA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Comments
Subchapter 2D—Air Pollution Control Requirements				
* * * * *	*			*
Section .0101	Definitions	1/5	11/10/99	
* * * * *	*			*
Section .0104	Incorporation by Reference	1/15/98	11/10/99	
Section .0105	Mailing List	1/15/98	11/10/99	
* * * * *	*			*
Section .0202	Registration of Air Pollution Sources	1/15/98	11/10/99	

EPA APPROVED NORTH CAROLINA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Comments
* * * * *		*		*
Section .0302	Episode Criteria	1/15/98	11/10/99	
* * * * *		*		*
Section .0506	Particulates from Hot Mix Asphalt Plants	3/20/98	11/10/99	
Section .0507	Particulates from Chemical Fertilizer	3/20/98	11/10/99	
Section .0508	Particulates from Pulp and Paper Mills	3/20/98	11/10/99	
Section .0509	Particulates from Mica or Feldspar Processing	3/20/98	11/10/99	
Section .0511	Particulates from Lightweight Aggregate	3/20/98	11/10/99	
* * * * *		*		*
Section .0513	Particulates from Portland Cement Plants	3/20/98	11/10/99	
Section .0514	Particulates from Ferrous Jobbing Foundries	3/20/98	11/10/99	
Section .0515	Particulates from Miscellaneous Industrial Processes.	3/20/98	11/10/99	
* * * * *		*		*
Section .0521	Control of visible Emissions	3/20/98	11/10/99	
* * * * *		*		*
Section .0531	Sources in Nonattainment Areas	1/15/98	11/10/99	
* * * * *		*		*
Section .0540	Particulates from Fugitive Non-Process Dust Emission Sources.	3/20/98	11/10/99	
* * * * *		*		*
Section .0914	Determination of VOC Emission Control System Efficiency.	3/20/98	11/10/99	
* * * * *		*		*
Section .0927	Bulk Gasoline Terminals	3/20/98	11/10/99	
* * * * *		*		*
Section .0938	Perchloroethylene Dry Cleaning System	3/20/98	11/10/99	
* * * * *		*		*
Section .0953	Vapor Return Piping for Stage II Vapor Recovery	1/15/98	11/10/99	
Section .0953	Vapor Return Piping for Stage II Vapor Recovery	3/20/98	11/10/99	
* * * * *		*		*
Section .1902	Definitions	1/15/98	11/10/99	
Section .1903	Permissible Open Burning Without a Permit	Annual Emissions Reporting	1/15/98	11/10/99
Subchapter 2Q— AirQuality Permits Requirements				
Section .0101	Required Air Quality Permits	3/20/98	11/10/99	
* * * * *		*		*
Section .0103	Definitions	1/15/98	11/10/99	
* * * * *		*		*
Section .0108	Delegation of Authority	3/15/98	11/10/99	
Section .0207	Annual Emissions Reporting	1/15/98	11/10/99	
* * * * *		*		*
Secton .0306	Permits Requiring Public Participation	3/20/98	11/10/99	
Section .0307	Public Participation Procedures	1/15/98	11/10/99	
Subchapter 2Q—Air Quality Permits Requirements				
* * * * *		*		*
Section .0312	Application Processing Schedule	3/20/98	11/10/99	
Section .0313	Expedited Application Processing Schedule	4/17/97	11/10/99	
* * * * *		*		*
Section .0607	Application Processing Schedule	4/17/97	11/10/99	
* * * * *		*		*
Section .0805	Grain Elevators	1/15/98	11/10/99	
Section .0806	Cotton Gins	1/15/98	11/10/99	
Section .0807	Emergency Generators	1/15/98	11/10/99	

* * * * *

[FR Doc. 00–25599 Filed 10–6–00; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 413

[HCFA–1883–F2]

RIN 0938–AI80

Medicare Program; Revision of the Procedures for Requesting Exceptions to Cost Limits for Skilled Nursing Facilities and Elimination of Reclassifications; Correction

AGENCY: Health Care Financing Administration (HCFA) HHS.

ACTION: Technical corrections.

SUMMARY: In the August 5, 1999 issue of the **Federal Register** (64 FR 42610), we published a final rule addressing the procedures for granting exceptions to the Medicare skilled nursing facility (SNF) routine service cost limits, and we removed the provision allowing for reclassification for SNFs and home health agencies. This document amends the regulations text to make technical corrections to those parts of the regulation unrelated to the SNF exception procedures that were inadvertently changed.

EFFECTIVE DATE: September 7, 1999.

FOR FURTHER INFORMATION CONTACT: Julie Stankivic, (410) 786–5725.

SUPPLEMENTARY INFORMATION:

Background

In the August 5, 1999 final rule (64 FR 42610), we amended the regulations to allow the fiscal intermediaries to make final determinations on requests by skilled nursing facilities (SNFs) for exceptions to the Medicare routine service cost limits under 42 CFR § 413.30(f). In the preamble to both the proposed and final rules (63 FR 42797 and 64 FR 42610, respectively), we specifically stated that the changes are limited to our procedures regarding SNF exceptions. We did not intend to change the new provider exemption under § 413.30(e) or any other provision relating to home health agencies (HHAs). The changes in § 413.30 as set forth in the final rule, however, have raised questions as to whether policy changes had been made in these unrelated areas.

The New Provider Exemption

The preamble to the proposed and final rules (63 FR 42797 and 64 FR 42610, respectively) discussed the three types of relief available to SNFs that exceed the SNF routine service cost limits found in § 413.30. In the preamble concerning § 413.30(c), we indicated that a provider may seek relief from the effects of applying the cost limits, either by requesting an exemption from its limits as a new provider of inpatient services, by requesting a reclassification of its provider status, or by requesting an exception to the cost limit. Of these three types of relief, the proposed and final rules focused solely on the exception process and our proposal to revise the approval process for granting exceptions to the cost limits for SNFs and to remove the provision for obtaining a reclassification for a SNF or an HHA. We did not make changes to the exemption requirements for a new provider. However, the recently promulgated changes to § 413.30(c)(2), with regard to the processing of SNF exception requests, may have created confusion with regard to the processing of new provider exemption requests. In addition, editorial changes to § 413.30(d), meant to clarify which provisions applied to which provider type may have created an impression that a policy change has occurred; no policy changes were intended. The only two provider types subject to the regulations found in § 413.30 at present are SNFs and HHAs. We did not propose any changes to our existing policies with regard to the new provider exemption provision or the processing of new provider exemption requests. The intermediary makes a recommendation to HCFA, and HCFA makes the final determination on requests by SNFs for a new provider exemption under § 413.30(d) as redesignated.

Home Health Agencies

In the preamble to the proposed and final rules (63 FR 42797, 64 FR 42610), we clearly stated that we are retaining the current procedures for HHA exception requests and that these provisions would remain unchanged. We modified § 413.30 (in its entirety), in an attempt to clarify which provisions applied to which provider type. The only two provider types subject to § 413.30 at present are SNFs and HHAs. HHAs, however, have never been eligible to receive an exception for ''areas with fluctuating populations,'' an impression that may have been created by these editorial changes.

Provisions of the Rule

For the reasons discussed above, we are making the necessary technical corrections to restore the regulations to conform with our longstanding and unchanged policies for both the new provider exemption for SNFs, and the procedures for exceptions to the cost limits for HHAs.

List of Subjects in 42 CFR Part 413

Health facilities, Kidney diseases, Medicare, Puerto Rico, Reporting and recordkeeping requirements.

Accordingly, 42 CFR part 413 is corrected by making the following correcting amendments:

PART 413—PRINCIPLES OF REASONABLE COST REIMBURSEMENT; PAYMENT FOR END-STAGE RENAL DISEASE SERVICES; PROSPECTIVELY DETERMINED PAYMENT RATES FOR SKILLED NURSING FACILITIES

1. The authority citation for part 413 continues to read as follows:

Authority: Secs. 1102, 1812(d), 1814(b), 1815, 1833(a), (i), and (n), 1871, 1881, 1883, and 1886 of the Social Security Act (42 U.S.C. 1302, 1395f(b), 1395g, 13951, 13951(a), (i), and (n), 1395x(v), 1395hh, 1395rr, 1395tt, and 1395ww).

2. In § 413.30, the following changes are made:

§ 413.30 [Corrected]

A. In paragraph (a) introductory text, at the end of the second sentence after the word ''situations'', the phrase ''of particular providers'' is added.

B. In paragraph (a)(2), at the beginning of the first sentence, the words ''Payable SNF and HHA'' are removed, and the words ''Reimbursable provider'' are added in their place.

C. In paragraph (c) introductory text, in the last sentence, the words ''intermediary's notice of program pay'' are removed, and the words ''intermediary's notice of program reimbursement'' are added in their place.

D. In paragraph (c)(2), the heading is corrected to read ''Skilled nursing facility exception''; and in the first sentence, the word ''exception'' is added between the words ''SNFs'' and ''request''.

E. In paragraph (d), add the sentence ''The intermediary makes a recommendation on the provider's request to HCFA, which makes the decision.'' after the first sentence; and remove the words ''the type of'' from the first sentence and add the word ''a'' in their place.

F. In paragraph (e)(3) introductory text, the words ''or HHA'' are removed; and in paragraph (e)(3)(ii), the word ''similar'' is added before each occurrence of the word ''services'', and the words ''or HHA'' are removed.

(Catalog of Federal Domestic Assistance Program No. 93.773 Medicare—Hospital Insurance)

Dated: September 21, 2000.

Brian P. Burns,

Deputy Assistant Secretary for Information Resources Management.

[FR Doc. 00–25497 Filed 10–6–00; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 440 and 441

[HCFA–2010–FC]

RIN 0938–AI67

Medicaid Program; Home and Community-Based Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment period.

SUMMARY: This final rule with comment period expands State flexibility in providing prevocational, educational, and supported employment services under the Medicaid home and community-based services waiver provisions currently found in section 1915(c) of the Social Security Act (the Act); and incorporates the self-implementing provisions of section 4743 of the Balanced Budget Act of 1997 that amends section 1915(c)(5) of the Act to delete the requirement that an individual have prior institutionalization in a nursing facility or intermediate care facility for the mentally retarded before becoming eligible for the expanded habilitation services. In addition, we are making a number of technical changes to update or correct the regulations.

DATES: Effective date: October 1, 1997. We will consider written comments if we receive them at the appropriate address, as provided below, no later than 5 p.m. on or before December 11, 2000.

ADDRESSES: Mail written comments (one original and three copies) to the following address: Health Care Financing Administration, U.S. Department of Health and Human Services, P.O. Box 9010, Attention: HCFA–2010–FC, 7500 Security Boulevard, Baltimore, MD 21244–9010.

If you prefer, you may deliver your written comments (one original and three copies) to one of the following addresses:

Room 443–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or

Room C5–09–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Because of staffing and resource limitations, we cannot accept audio, visual, or facsimile (FAX) copies of comments. In commenting, please refer to file code HCFA–2010–FC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in room 443–G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

FOR FURTHER INFORMATION CONTACT: Mary Jean Duckett, (410) 786–3294.

SUPPLEMENTARY INFORMATION:

I. Background

The Medicaid program is a Federally supported, State-administered program that provides medical assistance to individuals that meet eligibility criteria. It was established in 1965 as title XIX of the Social Security Act (the Act).

Section 1915(c) was added to title XIX of the Act by the Omnibus Budget Reconciliation Act of 1981 (OBRA 1981) (Public Law 97–35) to encourage the provision of cost-effective services to Medicaid recipients in noninstitutional settings. Before the enactment of OBRA 1981, the Medicaid program provided limited coverage for long-term care services in noninstitutional settings.

Section 1915(c) of the Act authorizes the Secretary to waive certain Medicaid statutory requirements to enable a State to cover a broad array of home and community-based services that are not otherwise available under a State's Medicaid program. These services must be furnished in accordance with an individually written plan of care that is subject to approval by the State Medicaid agency, and may be furnished only to persons who, but for the provision of the services, would otherwise require the level of care provided in a hospital, nursing facility (NF), or intermediate care facility for the mentally retarded (ICF/MR). Coverage of these services enables elderly, disabled, and chronically ill persons, who would otherwise be institutionalized, to live in the community.

Under section 1915(c) of the Act, a State could receive Federal financial participation (FFP) for the following services as home and community-based services: case management services, homemaker and home health aide services, personal care services, adult day health services, habilitation services, respite care, and ''other'' services as requested by the State and approved by HCFA. Section 9502(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272) revised section 1915(c) of the Act to explicitly include certain prevocational, educational, and supported employment services as expanded habilitation services under home and community-based services for those individuals who receive waiver services after discharge from an NF or ICF/MR. Section 1915(c)(4) of the Act authorizes the provision of habilitation services, and section 1915(c)(5) of the Act defines habilitation services as services to assist individuals in acquiring, retaining, and improving the self-help, socialization, and adaptive skills necessary to reside successfully in home and community-based settings.

Section 1915(c)(5) of the Act was further amended by section 4743(a) of the Balanced Budget Act of 1997 (BBA) (Public Law 105–33), which deleted the requirement that an individual have prior institutionalization in either an NF or ICF/MR before becoming eligible for habilitation services. The regulations at § 440.180(c)(1) applied this prior institutionalization requirement to expanded habilitation services. Thus, effective October 1, 1997, if a State chooses to provide these expanded habilitation services under its home and community-based waiver, it may provide these services to all individuals eligible for these services without regard to whether the individuals had a prior institutional stay in an NF or ICF/MR.

II. Provisions of the Final Rule With Comment Period

Before the enactment of the BBA, section 1915(c)(5) of the Act specified that the term ''habilitation services'' applies to individuals who receive services after discharge from an NF or ICF/MR. Section 4743 of the BBA amended section 1915(c)(5) of the Act, effective October 1, 1997, to remove the requirement that an individual be institutionalized before receiving habilitation services.

To implement the provisions of section 4743 of the BBA, we are revising parts 440 and 441. We are also making a number of technical changes to update or correct the regulations.

In § 440.180, ''Home or community-based services,'' we are revising the heading for paragraph (c) by changing the effective date from April 7, 1986 to October 1, 1997, and in paragraph (c)(1) we are deleting the requirement that recipients must have been discharged from a Medicaid-certified NF or ICF/MR to receive the services.

In § 441.301, ''Contents of request for a waiver,'' our current rules at paragraph (a)(2) state that requests for waivers of the requirements of the Act that concern statewide application of Medicaid, comparability of services, and income and resource rules are applicable to individuals with spouses living in the community. This requirement incorrectly limits the waiver of the requirements of section 1902(a)(10)(C)(i)(III) of the Act to individuals with spouses. We are correcting the requirement by deleting the phrase ''with spouses'' and adding ''medically needy'' before the word ''individuals.'' This revision clarifies that the request for a waiver is not limited to medically needy individuals with spouses.

In § 441.302, ''State assurances,'' we are making a number of changes. Section 441.302(c)(1)(i) incorrectly cites hospital regulations at § 440.40, rather than at § 440.10. We are making this technical change. Section 441.302(d) requires States to give assurance that when a recipient is determined to be likely to require the level of care provided in an SNF, ICF, or ICF/MR, the recipient or his or her legal representative will be informed of the alternatives available under the waiver and given the choice of either institutional or home and community-based services. We are updating the terminology in § 441.302(d) by removing the terms ''SNF and ICF'' and replacing them with ''NF,'' and adding the term ''hospital'' as a conforming change to the regulations text. Section 441.302(i)(2) also requires State assurances that services are furnished only to individuals who have been deinstitutionalized, regardless of discharge date from a Medicaid-certified NF or ICF/MR. Therefore, to conform the regulation to the BBA changes, we are removing § 441.302(i)(2) and redesignating § 441.302(i)(3) as § 441.302(i)(2). In the redesignated § 441.302(i)(2), we are also removing the phrase ''on or after April 7, 1986.''

In § 441.307, ''Notification of a waiver termination,'' our regulations at paragraph (a) require that if a State chooses to terminate its waiver before the 3-year period expires, it must notify HCFA in writing 30 days before terminating services to recipients. We are making a technical correction in paragraph (a) to state that waivers may be terminated during the initial 3-year period or 5-year renewal period.

In § 441.310, ''Limits on Federal financial participation (FFP),'' we are making a number of changes. Section 441.310(a)(3)(i) states that FFP is not available for prevocational, educational, or supported employment services, or any combination of these services, as part of habilitation services that are provided before April 7, 1986, and § 441.310(a)(3)(iii) requires that habilitation services must be provided to recipients who were never institutionalized in a Medicaid-certified NF or ICF/MR. Section 441.310(b) states that FFP is available for expenditures for expanded habilitation services if the services are included under a waiver or waiver amendment approved by HCFA on or after April 7, 1986. Again, as the BBA eliminated the April 1986 date and also makes services available to medically needy recipients who have not been institutionalized, we are revising § 441.310(a)(3)(i), § 441.310(a)(3)(iii), and § 441.310(b) to conform the regulations to the BBA changes.

III. Collection of Information Requirements

This document does not impose any information collection and recordkeeping requirements subject to the Paperwork Reduction Act of 1995 (PRA). Consequently, it does not need to be reviewed by the Office of Management and Budget (OMB) under the authority of the PRA.

IV. Response to Comments

Because of the large number of comments we receive in response to a **Federal Register** publication, we are not able to respond to them individually. We will, however, consider all comments that we receive by the date and time specified in the ''DATES'' section of this preamble, and, if we publish a subsequent document, we will respond to the comments in the preamble to that document.

V. Waiver of Notice of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of the rule take effect. However, pursuant to 5 U.S.C. 553(b)(B), we may waive a notice of proposed rulemaking if we find good cause that notice and comment are impracticable, unnecessary, or contrary to the public interest. For good cause we find that it was unnecessary to undertake notice and comment procedures because these self-implementing changes merely conform the regulations to the statutory language or make technical corrections and do not involve any exercise of discretion.

Therefore, we believe it is unnecessary to publish a proposed rule and for good cause waive publication of a proposed regulation. We are, however, providing a 60-day period for public comment.

VI. Waiver of Effective Date

Under section 553(d) of the Administrative Procedure Act, we ordinarily publish a substantive rule at least 30 days before its effective date, unless for good cause we find a delay is impracticable, unnecessary, or contrary to the public interest. For good cause we find it unnecessary to delay the effective date of this rule because the changes are self-implementing or merely reflect technical corrections. Therefore, we are waiving the 30-day delay of the effective date.

VII. Regulatory Impact Analysis

We have examined the impact of this rule as required by Executive Order (E.O.) 12866 and the Regulatory Flexibility Act (RFA) (Public Law 96–354). E.O. 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits, including potential economic, environmental, public health and safety effects, distributive impacts, and equity.

The RFA (5 U.S.C. 601 through 612) requires agencies to analyze options for regulatory relief for small entities. Consistent with the RFA, we prepare a regulatory flexibility analysis unless we certify that a rule will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we treat most hospitals and most other providers, physicians, health care suppliers, carriers, and intermediaries as small entities, either by nonprofit status or by having revenues of $5 million or less annually. Individuals and States are not included in the definition of a small entity.

Also, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. That analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of

a Metropolitan Statistical Area and has fewer than 50 beds.

We are not preparing analyses for either the RFA or section 1102(b) of the Act because we have determined, and we certify, that this rule will not have a significant economic impact on a substantial number of small entities or a significant impact on the operations of a substantial number of small rural hospitals. This rule primarily affects States and individuals by expanding State flexibility and individual eligibility regarding certain services under Medicaid home and community-based waivers. It does not impose any new, direct economic burdens on providers or other health care entities.

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that agencies prepare an assessment of anticipated costs and benefits for any rule that may result in an expenditure by State, local, or tribal governments in the aggregate, or by the private sector, of $100 million in any one year. This rule has no mandated consequential effect on State, local, or tribal governments, or the private sector, and will not create an unfunded mandate.

We do not believe publication of this rule will have a major impact on Medicaid waiver costs. According to States that have the expanded habilitation services under their waivers, individuals that currently are not receiving the expanded habilitation services because of no prior institutionalization are in day habilitation programs. This rule offers States greater flexibility. As stated above it should not significantly change how they do business because more individuals would shift from day habilitation to expanded habilitation programs.

In accordance with Executive Order 12866, this final rule with comment period was reviewed by OMB.

We have reviewed this rule under the threshold criteria of Executive Order 13132, Federalism. We have determined that this rule does not significantly affect the rights, roles, and responsibilities of States.

List of Subjects

42 CFR Part 440

Grant programs-health, Health facilities, Health maintenance organizations (HMO), Medicaid, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 441

Family planning, Grant programs-health, Infants and children, Medicaid, Penalties, Reporting and recordkeeping requirements.

42 CFR chapter IV is amended as set forth below:

PART 440—SERVICES: GENERAL PROVISIONS

A. Part 440 is amended as follows:

1. The authority citation for part 440 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. In § 440.180, the heading for paragraph (c) and paragraph (c)(1) are revised to read as follows:

§ 440.180 Home or community-based services.

* * * * *

(c) *Expanded habilitation services, effective October 1, 1997*— (1) *General rule.* Expanded habilitation services are those services specified in paragraph (c)(2) of this section.

* * * * *

PART 441—SERVICES: REQUIREMENTS AND LIMITS APPLICABLE TO SPECIFIC SERVICES

B. Part 441 is amended as follows:

1. The authority citation for part 441 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. In § 441.301, the introductory text of paragraph (a) is republished and paragraph (a)(2) is revised to read as follows:

§ 441.301 Contents of request for a waiver.

(a) A request for a waiver under this section must consist of the following:

* * * * *

(2) When applicable, requests for waivers of the requirements of section 1902(a)(1), section 1902(a)(10)(B), or section 1902(a)(10)(C)(i)(III) of the Act, which concern respectively, statewide application of Medicaid, comparability of services, and income and resource rules applicable to medically needy individuals living in the community.

* * * * *

§ 441.302 [Amended]

3. In § 441.302, the following changes are made:

a. Paragraph (c)(1)(i) is amended by removing the citation ''§ 440.40'' and adding ''§ 440.10'' in its place.

b. The introductory text of paragraph (d) is revised, paragraph (i)(2) is removed, and paragraph (i)(3) is redesignated as paragraph (i)(2) and revised to read as follows:

§ 441.302 State assurances.

* * * * *

(d) *Alternatives*—Assurance that when a recipient is determined to be likely to require the level of care provided in a hospital, NF, or ICF/MR, the recipient or his or her legal representative will be—

* * * * *

(i) * * *

(2) Furnished as part of expanded habilitation services, if the State has requested and received HCFA's approval under a waiver or an amendment to a waiver.

* * * * *

4. In § 441.307, paragraph (a) is revised to read as follows:

§ 441.307 Notification of a waiver termination.

(a) If a State chooses to terminate its waiver before the initial 3-year period or 5-year renewal period expires, it must notify HCFA in writing 30 days before terminating services to recipients.

* * * * *

5. In § 441.310, the introductory text of paragraph (a) is republished, and paragraphs (a)(3) and (b) are revised to read as follows:

§ 441.310 Limits on Federal financial participation (FFP).

(a) FFP for home and community-based services listed in § 440.180 of this chapter is not available in expenditures for the following:

* * * * *

(3) Prevocational, educational, or supported employment services, or any combination of these services, as part of habilitation services that are—

(i) Provided in approved waivers that include a definition of ''habilitation services'' but which have not included prevocational, educational, and supported employment services in that definition; or

(ii) Otherwise available to the recipient under either special education and related services as defined in section 602(16) and (17) of the Education of the Handicapped Act (20 U.S.C. 1401(16) and (17)) or vocational rehabilitation services available to the individual through a program funded under section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730).

* * * * *

(b) FFP is available for expenditures for expanded habilitation services, as described in § 440.180 of this chapter, if the services are included under a waiver or waiver amendment approved by HCFA.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program).

Dated: December 28, 1999.

Nancy-Ann DeParle,

Administrator, Health Care Financing Administration.

Dated: March 28, 2000.

Donna E. Shalala,

Secretary.

Editorial Note: This document was received at the Office of the Federal Register September 29, 2000.

[FR Doc. 00–25496 Filed 10–6–00; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 87

[ET Docket No. 98–197; FCC 00–353]

Radionavigaton Service at 31.8–32.3 GHz

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends the Commission's Rules to delete the unused radionavigation service allocation from the band 31.8–32.3 GHz in the Non-Federal Government Table of Frequency Allocations and removes this band from the list of available frequencies set forth in the rules for the Aviation Services. This action will obviate concerns for interference to the reception of deep space radiocommunications in the band 31.8–32.3 GHz from co-channel, non-Federal Government radionavigation transmissions that could otherwise occur in the future.

DATES: Effective November 9, 2000.

FOR FURTHER INFORMATION CONTACT: Tom Mooring , Office of Engineering and Technology, (202) 418–2450.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order,* ET Docket No. 98–197, FCC 00–353, adopted September 22, 2000, and released September 26, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room CY–A257, 445 12th Street, SW., Washington, DC, and also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857–3800, 1231 20th Street, NW Washington, DC 20036.

Summary of the Report and Order

1. This Report and Order amends part 2 of the Commission's Rules to delete the unused radionavigation service allocation from the band 31.8–32.3 GHz in the Non-Federal Government Table of Frequency Allocations. Consequently, we also amend part 87 to remove this sub-band from the list of available frequencies set forth in the rules for the Aviation Services. We take this action in response to a request from the National Telecommunications and Information Administration. This action will obviate concerns for interference to the reception of deep space radiocommunications in the band 31.8–32.3 GHz from co-channel, non-Federal Government radionavigation transmissions that could otherwise occur in the future. This action will also provide adequate spectrum for future applications of the non-Federal Government radionavigation service in the remaining 1.1 gigahertz at 32.3–33.4 GHz.

2. We adopt our proposal (63 FR 65726, November 30, 1998) to delete the non-Federal Government radionavigation service allocation from the band 31.8–32.3 GHz. This action reduces the amount of spectrum available to the non-Federal Government radionavigation service in this frequency range by approximately 30%. By limiting future non-Federal Government radionavigation services to the band 32.3–33.4 GHz, NASA's deep space operations in the band 31.8–32.3 GHz will be protected and sufficient spectrum will be available to accommodate such commercial and private radionavigation services as may develop in the future. As a consequence of this action, we also will delete the band 31.8–32.3 GHz from the list of frequencies that are available for use by the aeronautical radionavigation service under § 87.173 of the rules for the Aviation Services. Since the band 32.3–33.4 GHz has previously been added to the § 87.173, we are adding a rule part cross-reference to part 87 in the Table of Frequency Allocations.

3. *Final Regulatory Flexibility Certification.* The Regulatory Flexibility Act (''RFA'') [1] requires that a regulatory flexibility analysis be prepared for notice-and-comment rulemaking proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' The RFA generally defines ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (''SBA'').

4. In the *Notice of Proposed Rulemaking,* we concluded that the proposed rules ''[would] not have a significant economic impact on a substantial number of small entities.'' Although no separate comments were received concerning this certification, the only commenter to the proceeding, Mr. Lyman C. Welch, did express concern that this rule change would prohibit commercial use. In this *Report and Order,* we have clarified that commercial entities may continue to make use of the Federal Government's facility at Goldstone, and we therefore find that no small entities will be impacted by the rule change. Accordingly, we hereby certify that the deletion of the non-Federal Government radionavigation allocation at 31.8–32.3 GHz will not have a significant economic impact on a substantial number of small entities.

5. *Report to Congress:* The Commission will send a copy of this *Report and Order,* including this final certification, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, *see* 5 U.S.C. 801(a)(1)(A). In addition, the *Report and Order* and this certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration. *See* 5 U.S.C. 605(b).

6. Pursuant to the authority contained in Sections 4(i), 7(a), 303(c), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 157(a), 303(c), 303(f), 303(g), and 303(r), parts 2 and 87 of the Commission's Rules are amended; effective November 9, 2000.

List of Subjects

47 CFR Part 2

Communications equipment, Radio.

47 CFR Part 87

Air transportation, Communications equipment, Radio.

[1] *5 U.S.C. 601 et seq.* The RFA has been amended by the Contract With America Advancement Act of 1996, Public Law 104–121, 110 Stat. 847 (1996) (''CWAAA''). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (''SBREFA'').

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 2 and 87 as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. Sections 154, 302a, 303, and 336, unless otherwise noted.

2. Section 2.1(c) is amended by revising the definition for the ''Inter-Satellite Service'' as follows:

§ 2.1 Terms and definitions.

* * * * *

(c) * * *

Inter-Satellite Service. A radiocommunication service providing links between artificial satellites. (RR)

* * * * *

3. Section 2.106 is amended as follows:

a. Pages 74 and 75 of the Table of Frequency Allocations are revised.

b. Footnote US262 is revised.

The revision reads as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

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30-31 FIXED-SATELLITE (Earth-to-space) MOBILE-SATELLITE (Earth-to-space) Standard frequency and time signal-satellite (space-to-Earth) S5.542			30-31 FIXED-SATELLITE (Earth-to-space) MOBILE-SATELLITE (Earth-to-space) Standard frequency and time signal-satellite (space-to-Earth) G117	30-31 Standard frequency and time signal-satellite (space-to-Earth)	
31-31.3 FIXED MOBILE Standard frequency and time signal-satellite (space-to-Earth) Space research S5.544 S5.545 S5.149			31-31.3 Standard frequency and time signal-satellite (space-to-Earth) S5.149 US211	31-31.3 FIXED MOBILE Standard frequency and time signal-satellite (space-to-Earth) S5.149 US211	Fixed Microwave (101)
31.3-31.5 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) S5.340			31.3-31.8 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive)		
31.5-31.8 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) Fixed Mobile except aeronautical mobile S5.149 S5.546	31.5-31.8 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) S5.340	31.5-31.8 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) Fixed Mobile except aeronautical mobile S5.149	US246		
31.8-32 FIXED S5.547A RADIONAVIGATION SPACE RESEARCH (deep space) (space-to-Earth) S5.547 S5.547B S5.548			31.8-32 RADIONAVIGATION US69 SPACE RESEARCH (deep space) (space-to-Earth) US262 S5.548 US211	31.8-32 SPACE RESEARCH (deep space) (space-to-Earth) US262 S5.548 US211	

International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
32-32.3 FIXED S5.547A INTER-SATELLITE RADIONAVIGATION SPACE RESEARCH (deep space) (space-to-Earth) S5.547 S5.547C S5.548			32-32.3 INTER-SATELLITE US278 RADIONAVIGATION US69 SPACE RESEARCH (deep space) (space-to-Earth) US262 S5.548	32-32.3 INTER-SATELLITE US278 SPACE RESEARCH (deep space) (space-to-Earth) US262 S5.548	
32.3-33 FIXED S5.547A INTER-SATELLITE RADIONAVIGATION S5.547 S5.547D S5.548			32.3-33 INTER-SATELLITE US278 RADIONAVIGATION US69 S5.548		Aviation (87)
33-33.4 FIXED S5.547A RADIONAVIGATION S5.547 S5.547E			33-33.4 RADIONAVIGATION US69		
33.4-34.2 RADIOLOCATION S5.549			33.4-36 RADIOLOCATION US110 G34	33.4-36 Radiolocation US110	Private Land Mobile (90)
34.2-34.7 RADIOLOCATION SPACE RESEARCH (deep space) (Earth-to-space) S5.549					
34.7-35.2 RADIOLOCATION Space research S5.550 S5.549					
35.2-35.5 METEOROLOGICAL AIDS RADIOLOCATION S5.549					

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* * * * *

United States (US) Footnotes

* * * * *

US262 The use of the band 31.8–32.3 GHz by the space research service (deep space) (space-to-Earth) is limited to Goldstone, California.

* * * * *

PART 87—AVIATION SERVICES

4. The authority citation for part 87 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, 307(e) unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–156, 301–609.

5. Section 87.173(b) is amended by removing the entry for ''31800–33400 MHz'' in the frequency table and adding a new entry in numerical order to read as follows:

§ 87.173 Frequencies.

* * * * *

(b) Frequency table:

Frequency or frequency band	Subpart	Class of station	Remarks
* * * * * * *			
32300–33400 MHz	F, Q	MA, RL	Aeronautical radionavigation.

[FR Doc. 00–25733 Filed 10–6–00; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 20

[CC Docket No. 94–54; FCC 00–307]

Interconnection and Resale Obligations in the Commercial Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: Through this document, the Commission denies a petition for reconsideration of previous Commission decisions in this proceeding. Petitioners request that we eliminate the exclusion of Commercial Mobile Radio Service (CMRS) from the Commission's resale rule and extend the sunset of the resale rule at least one full year beyond the successful conclusion of wireless local number portability implementation. This document responds to this petition.

FOR FURTHER INFORMATION CONTACT: Jane Phillips, 202–418–1310.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Reconsideration of the Memorandum Opinion and Order on Reconsideration in CC Docket No. 94–54 (Order) (FCC 00–307), adopted August 17, 2000, and released August 22, 2000. The complete text of this MO&O is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, SW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services (ITS, Inc.), CY–B400, 445 12th Street, SW., Washington, DC.

Synopsis of the Order

1. In this decision, the Commission denies a petition for reconsideration of decisions contained in the Memorandum Opinion and Order on Reconsideration, 64 FR 61022, November 9, 1999 (MO&O) in this proceeding. The wireless resale rule prohibits Commercial Mobile Radio Service (CMRS) providers from unreasonably restricting resale of their services.

2. The First Report and Order, 61 FR 38399, July 24, 1996 (First R&O) in this proceeding promulgated a rule prohibiting certain CMRS providers from restricting the resale of their services during a transitional period. The First R&O extended the resale rule, which previously had applied only to cellular providers, to providers of broadband personal communications services (PCS) and certain specialized mobile radio (SMR) services. Additionally, the First R&O sunset the resale rule five years after completion of its initial grant of broadband PCS licenses, *i.e.,* November 24, 2002.

3. The MO&O affirmed the 2002 sunset date, but modified the resale rule to exclude customer premises equipment (CPE) and CPE in bundled packages and to exclude from its scope certain C, D, E, and F block PCS licenses, as well as all CMRS providers of voice or data services that do not use in-network switching facilities.

4. MCI WorldCom filed a petition for further reconsideration requesting that the Commission eliminate the exclusion for CPE and extend the sunset at least one full year beyond the successful conclusion of wireless local number portability implementation.

5. As discussed in the full text of this Order, the Commission denies MCI WorldCom's petition for reconsideration and reaffirms its determinations to exclude CPE from the scope of the CMRS resale rule and to sunset the rule on November 24, 2002. With respect to the exclusion for certain C, D, E, and F block PCS licensees, the Order does not address what impact the Commission's ultimate decision regarding eligibility to participate in the reauction of C and F block licensees may have on the scope of the resale rule.

Regulatory Flexibility Analysis

6. The Commission has not prepared an additional Final Regulatory Flexibility Analysis of the possible impact on small entities of the Commission's decisions, as otherwise required by the Regulatory Flexibility Act, 5 U.S.C. 604, because no changes have been made in this Order to the Commission's rules or policies.

Authority

7. This action is taken pursuant to sections 1, 4(i), 4(j), 10, 201, 202, 303(r), 309, 332, and 403 of the Communications Act, 47 U.S.C. 1, 4(i), 4(j), 160, 201, 202, 303(r), 309, 332, 403.

Ordering Clauses

Accordingly, the Petition for Reconsideration filed by MCI WorldCom is denied.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 00–25807 Filed 10–6–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 27

[WT Docket No. 99–168]

Service Rules for the 746–764 and 776–794 MHz Bands; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document makes clarifications and corrections to the service rules for the 746–764 and 776–794 MHz bands, as published at 65 FR 3139, January 20, 2000, and at 65 FR 17594, April 4, 2000.

DATES: Effective October 10, 2000.

FOR FURTHER INFORMATION CONTACT: Jane Phillips, 202–418–1310.

SUPPLEMENTARY INFORMATION: The Commission, in the final rules of the First Report and Order (65 FR 3139, January 20, 2000), and the Second Report and Order, (65 FR 17594, April 4, 2000) inadvertently failed to make specific reference to the definitional criterion for the Gulf of Mexico Economic Area presently set forth in § 27.6(a)(2).

In rule FR Doc. No. 00–8144 published on April 4, 2000 (65 FR 17594) make the following correction.

§ 27.6 [Corrected]

1. On page 17602, in the third column, in § 27.6(b)(1) correct ''paragraph (a)(1)'' to read ''paragraphs (a)(1) and (a)(2)''.

In rule FR Doc. No. 00–1332 published on January 20, 2000 (65 FR 3139) make the following correction.

2. On page 3145, in the third column, in § 27.6(b)(2), line 7, after the words ''S*ee also''* add the phrase ''paragraphs (a)(1) and (a)(2) of this section and''.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 00–25808 Filed 10–6–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 63

[IB Docket No. 97–142, FCC 00–339]

Rules and Policies on Foreign Participation in the U.S. Telecommunications Market

AGENCY: Federal Communications Commission.

ACTION: Final rules.

SUMMARY: This document addresses specific issues raised in petitions requesting clarification and reconsideration of the Commission's decisions in the initial Report and Order in this proceeding. This document also clarifies and revises certain aspects of the Commission's rules regarding prior notifications of foreign affiliations. This document also amends the rules to define ''interlocking directorates'' and to cross-reference the Commission's prior notification requirements. The final rules contain information collections subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public and other Federal agencies are invited to comment on the information collections contained in the final rule.

EFFECTIVE DATE: Effective November 9, 2000 except for section 63.11 which contains modified information collections that have not been approved by the Office of Management and Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of that section. Written comments by the public on the information collection requirements are due October 24, 2000. OMB must submit written comments on the information collection requirements on or before December 11, 2000.

ADDRESSES: All comments regarding the requests for approval of the information collection, both regular and emergency, should be submitted to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, Washington, DC 20554, or via the Internet to *jboley@fcc.gov;* phone 202–418–0214. In addition, comments on the emergency request for approval of the information collections should be submitted to Edward C. Springer, OMB Desk Officer, Room 10236 NEOB, 725 17th Street, NW, Washington, DC 20503 or via the Internet to edward.springer@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Lisa Choi, Policy and Facilities Branch, Telecommunications Division, International Bureau, (202) 418–1384. For additional information concerning the information collections contained in this document contact Judy Boley at (202) 418–0214, or email at *jboley@fcc.gov.,* and Edward C. Springer, OMB Desk Officer, Room 10236 NEOB, 725 17th Street, NW, Washington, DC 20503 or via the Internet to edward.springer@omb.eop.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Reconsideration, FCC 00–339, adopted on September 12, 2000 and released on September 19, 2000. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257) of the Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554. The document is also available for download over the Internet at http://www.fcc.gov/Bureaus/International/Notices/2000/fcc00339.doc. The complete text of this document also may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20036, (202) 857–3800.

This document contains modified information collections subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. Implementation of any modified requirements will be subject to approval by the Office of Management and Budget (OMB) for review under the PRA's emergency processing provisions. OMB, the general public, and other Federal agencies are invited to comment on the proposed information collections contained in this proceeding.

Summary of Order on Reconsideration

1. On November 25, 1997, the Commission adopted a Report and Order and Order on Reconsideration (*Foreign Participation Order* (62 FR 64741. Dec. 9, 1997). The *Foreign Participation Order* established the Commission's procompetitive rules and policies regarding foreign participation in the U.S. telecommunications market. In light of the Word Trade Organization (WTO) basic Telecom Agreement and WTO Members' commitments to open markets, the Commission adopted rules to open further the U.S. market to competition from foreign companies. On September 12, 2000, the Commission adopted an Order on Reconsideration (Order) that addressed the petitions seeking clarification and reconsideration of the *Foreign Participation Order.* In this Order, the Commission found that its competitive safeguards and ability to attach additional conditions to grants of authority, in conjunction with the procompetitive commitments of WTO Members would reduce the danger of anticompetitive conduct resulting from entry of carriers from WTO Members into the U.S. Market.

2. Specifically, the Commission affirmed its prior conclusion that it is under no obligation to impose the same entry standard with regard to WTO Members' participation in the U.S. telecommunications market to Bell Operating Company (BOC) entry into in-region interLATA services markets pursuant to section 271. The Commission concluded that no new information or arguments were presented for it to revisit the initial conclusion that the public interest presumption established in the *Foreign*

Participation Order does not apply with regard to BOC entry into in-region interLATA markets. The Commission also noted that it has separately addressed the nature of its public interest analysis in its evaluations of BOC applications filed pursuant to section 271.

3. The Commission affirmed, clarified, and revised the requirement for prior notification of controlling investments by U.S. carriers in foreign carriers and of controlling investments of greater than twenty-five percent capital stock investments by foreign carriers in U.S. carriers. Although the Commission rejected a request to eliminate the prior notification requirement for U.S. carrier controlling investments in foreign carriers, the Commission did clarify and revise § 63.11 to address more precisely the underlying purpose for the provision and to reduce unnecessary regulatory burdens.

4. Specifically, the Commission will continue to require prior notification of a U.S. carriers' controlling investment in a foreign carrier or a foreign carrier's controlling or greater than twenty-five percent investment in a U.S. carrier with the exception that prior notification is not required if one of the following is true for the foreign carrier: (1) the foreign carrier is one that the Commission has previously determined in an adjudication lacks market power in destination markets authorized to be served by the U.S. carrier; (2) the foreign carrier is a resale carrier in such markets; or (3) the destination markets in which the foreign carrier is authorized to operate are WTO Members and the authorized carrier either demonstrates that it should retain non-dominant classification on the newly-affiliated routes pursuant to § 63.10 or the authorized carrier agrees to comply with the Commission's dominant carrier safeguards on those routes.

5. Authorized carriers that intend to rely on one of the exceptions to the prior notification rule are required to submit a certification with the Commission as part of its notification indicating upon which exception it is rely and certifying as to the factual basis for the qualification. In addition, the Commission modified the prior notification requirement so that such prior notifications must be filed forty-five days rather than sixty days prior to the consummation of the acquisition in order to respond to carriers' concerns that that sixty days is overly burdensome.

6. In addition, the Commission revised the rules to provide U.S. carriers with the opportunity to file confidentially the information requested by the Commission as part of their prior notifications of affiliation. Carriers are permitted to request in an accompanying cover letter that the Commission maintain confidential treatment of the prior notification information for twenty days, after which date the carrier agrees to public treatment of such information. The Commission will then place the notification on pubic notice twenty-fives days prior to the planned consummation of the investment. The revised rule will provide ample opportunity for public comment while alleviating carriers' concerns about the time burden and difficulty of maintaining the confidentiality of sensitive transactions.

7. The Commission also amended § 63.11 to permit the Commission to classify an authorized carrier as dominant by a public notice, rather than by written order, in circumstances in which the authorized carrier agrees to abide by dominant carrier regulation on an affiliated route. This amendment will reduce further regulatory burdens on carriers and administrative burdens on the Commission.

8. The Commission also modified the content of notifications of affiliation to include a statement by an authorized carrier as to whether the notification is subject to prior notification (including the date of projected closing) or post notification (including the actual date of closing). In order to facilitate processing of notifications and transfer of control or assignment applications, authorized carriers are required to cross-reference their applications and foreign carrier affiliation notifications. Similarly, with respect to the content of post-notifications of affiliation, carriers may not notify the Commission of a proposed affiliation with a foreign carrier in the context of a transfer of control or initial § 63.18 application in order to discharge their notification obligations under § 63.11. The Commission revised the rules to clarify that carriers are responsible for the continuing accuracy of the contents of their prior notifications during the forty-five day notice period and are responsible on an on-going basis for complying with the requirement for notifying the Commission of their affiliations with foreign carriers.

9. In light of recent rule changes in other proceedings, the Commission narrowed the definition of ''interlocking directorates'' as those persons having any of the duties ordinarily performed by a director, president, vice president, secretary, treasurer, or other officer of the carrier. In addition, authorized carriers are required to identify only their interlocking directorates with the foreign carriers that are the subject of the notifications.

10. The Commission clarified and revised the provision in § 63.11(e)(2) prohibiting the consummation of an investment pending Commission approval. Authorized carriers that acquire affiliations subject to the revised § 63.11 with carriers in non-WTO Members are required to demonstrate that the foreign carrier lacks market power or is a resale carrier, or to make an ECO showing in order to continue to operate on the applicable route. Otherwise, an authorized carrier risks having its authorization revoked.

11. The Commission found moot a request to reconsider its decision regarding the ''No Special Concessions'' rule and discontinue its practice of placing a special condition on BOC affiliate section 214 authorizations with respect to ''grooming arrangements'' (arrangements to terminate traffic in particular geographic regions). The Commission stated that the rule changes adopted in the *ISP Reform Order* (64 FR 34734, June 29, 1999) addressed this issue.

12. The Commission also denied the request to reconsider the language in the *Foreign Participation Order* referring to the Commission's ability to designate cable operators as common carriers. The Commission found that this proceeding was not the appropriate forum to address this concern. Rather, the Commission noted that the regulatory distinction between common carrier and non-common carrier submarine cables is at issue in the *Submarine Cable Streamlining* proceeding (65 FR 411613, June 6, 2000).

13. The Commission also rejected a request to modify its rebuttable presumption regarding the market power of a foreign carrier from a WTO Member. The Commission concluded that it had fully considered and rejected a similar proposal in the *Foreign Participation Order.*

14. In addition, the Commission addressed issues regarding dominant carrier safeguards for foreign-affiliated U.S. carriers. First, the Commission declined to remove the dominant carrier safeguards that apply to each U.S. carrier having an affiliation with a carrier that possesses market power on the route. In the *Foreign Participation Order,* the Commission adopted a narrowly-tailored dominant carrier framework designed to address specific concerns of anticompetitive behavior while limiting the regulatory burden imposed generally on foreign-affiliated U.S. carriers. These policies and

safeguards also were consistent with the United States' GATS obligations. The Commission found that no new arguments were presented for it to reconsider this issue. Second, the Commission reaffirmed its decision to continue to allow dominant foreign-affiliated carriers to file tariffs on one-day's notice and add or discontinue circuits on foreign-affiliated routes without prior approval. The Commission held that it had fully considered and dismissed these arguments in the *Foreign Participation Order.*

15. The Commission also denied a request to extend its deregulatory approach regarding section 310(b)(4) requests to the treatment of broadcast licenses. The Commission found that this matter was not at issue in the *Foreign Participation Order,* and therefore, this proceeding was not the proper forum to revisit this issue.

16. The Commission also rejected a request to broaden the application of the *Benchmarks Order* (62 FR 45758, August 29, 1997). Specifically, the Commission was asked to impose a condition on switched resale authorizations to serve foreign-affiliated markets on the foreign carrier offering U.S. authorized carriers a settlement rate for the affiliated route that is at or below the relevant benchmark rate. The Commission found that it had fully considered and reject this issue in the *Foreign Carrier Participation Order.* The Commission also noted that the *Benchmarks Reconsideration Order* (64 FR 47699, September 1, 1999) further narrowed the section 214 condition on facilities-based carriers so that it currently applies only to the provision of facilities-based switched and private line service to foreign-affiliated markets where the foreign affiliate possesses market power.

17. Finally, the Commission rejected the request that it reconsider that aeronautical enroute service is a basic telecommunications service. The Commission stated that although it has treated aeronautical enroute and fixed services as private services, they still fall within the class of services covered by U.S. commitments in the WTO. Thus, the Commission reaffirmed its conclusion that some aeronautical enroute and fixed services are basic telecommunications services under the WTO Basic Telecom Agreement.

Procedural Matters

18. *Final Regulatory Flexibility Certification.* The purposes of this proceeding are to adopt a liberalized standard for participation by foreign and foreign-affiliated entities in the U.S. telecommunications market, to eliminate some regulatory requirements, and to simplify and clarify other existing rules. The modifications do not impose any additional compliance burden on persons dealing with the Commission, including small entities. Any prospective carrier will continue to submit foreign carrier affiliation notifications. In most cases, the notifications will be filed after the consummation of the investment resulting in a foreign carrier affiliation. We anticipate that the revisions we adopt here will expand the ability of U.S. carriers to reap economic benefits by taking advantage of new opportunities in the international telecommunications marketplace.

19. The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.,* requires that an agency prepare a regulatory flexibility analysis for notice-and-comment rulemaking proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' The rule changes adopted in this order only affect the timing of the submission of foreign carrier affiliation notifications. These changes do not impose additional compliance burdens on small entities nor do they alter the small entities possibly affected by the rules published in the *Foreign Participation Order.* The rules adopted in this order would not have a detrimental impact on small entities. In fact, we anticipate that the rule changes we adopt here will reduce regulatory and procedural burdens on small entities. Therefore, we certify, pursuant to section 605(b) of the RFA, that the rules adopted herein will not have a significant economic impact on a substantial number of small entities.

20. The Commission will send a copy of the Order on Reconsideration, including a copy of this final certification, in a report to congress pursuant to SBREFA (5 U.S.C. 801(a)(1)(A)). In addition, the Order on Reconsideration and this certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration, and will be published in the **Federal Register.**

21. *Paperwork Reduction Act Analysis.* The Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be submit to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a valid control number. Comments on emergency request for approval of information collections are due on or before October 24, 2000. Public and agency comments on the regular request for approval of the information collections are due proposed and/or modified information collections are due on or before December 11, 2000.

Comments should address the following: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Control Number: 3060–0686.

Title: Streamlining the International Section 214 Authorization Process and Tariff Requirements.

Form Number: N/A.

Type of Review: Revisions to existing collection.

Respondents: Business and other for-profit entities.

Number of Respondents: 60.

Number of Responses: 1.

Estimated Time Per Response: 8 hours.

Frequency of Response: On Occasion.

Total Annual Burden: 480 hours (50% of burden estimated to be contracted to outside assistance).

Total Annual Costs: $36,000.

Needs and Uses: The information will be used by the Commission to assess the potential impact of a U.S. carrier's acquisition or affiliation with a foreign carrier. The information will enable the Commission to determine what safeguards may need to apply or what other Commission action may be necessary with regard to the authorized carrier's section 214 authorization to serve the affiliated route. The information collections are necessary for the Commission to protect the public interest from the harm and competitive distortion that could arise in the U.S. market from the presence of a new controlling foreign affiliation. In addition, the Commission must maintain records that accurately reflect a party or parties that control a carrier's operations, particularly for purposes of

enforcing the Commission's rules and policies.

Ordering Clauses

22. Pursuant to Sections 1, 2, 4(i), 201, 203, 205, 214, 303(r), 309, and 310 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 201, 203, 205, 214, 303(r), 309, 310 and Parts 43 and 63 of the Commission's rules, 47 CFR 43, 63, that the Order on Reconsideration in IB Docket No. 97–142 is *adopted.*

23. 47 CFR Part 63 is amended as set forth in the rule changes, effective November 9, 2000 except for section 63.11 which contains modified information collections that have not been approved by the Office of Management and Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of that section. Written comments by the public on the information collection requirements are due October 24, 2000. OMB must submit written comments on the information collection requirements on or before December 11, 2000.

24. The Petitions for Reconsideration filed by ARNIC, BellSouth, KDD, MCI, PanAmSat, SBC, and Sidak *are denied,* as described herein.

25. The Commission's Consumer Information Bureau, Reference Information Center, *shall send* a copy of this Order on Reconsideration, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

26. The policies, rules, and requirements, established in this decision shall take effect thirty days after publication in the **Federal Register** except for the rules in section 63.11 which contains modified information collections that have not been approved by the Office of Management and Budget (OMB).

List of Subjects in 47 CFR Part 63.

Communications common carriers, reporting and recordkeeping requirements,

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Part 63 as follows:

PART 63—EXTENSION OF LINES, NEW LINES, AND DISCONTINUANCE, REDUCTION, OUTAGE AND IMPAIRMENT OF SERVICE B COMMON CARRIERS; AND GRANTS OF RECOGNIZED PRIVATE OPERATING AGENCY STATUS

1. The authority citation for part 63 continues to read as follows:

Authority: Section 1, 4(I), 4(j), 10, 11, 201–205, 214, 218, 403 and 651 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 160, 201–205, 214, 218, 403, and 571, unless otherwise noted.

2. Section 63.09 is amended by adding paragraph (g) to read as follows:

§ 63.09 Definitions applicable to international Section 214 authorizations.

* * * * *

(g) As used in this part, the term:

(1) *Interlocking directorates* shall mean persons or entities who perform the duties of ''officer or director'' in an authorized U.S. international carrier or an applicant for international Section 214 authorization who also performs such duties for any foreign carrier.

(2) *Officer or director* shall include the duties, or any of the duties, ordinarily performed by a director, president, vice president, secretary, treasurer, or other officer of a carrier.

* * * * *

3. Section 63.11 is revised to read as follows:

§ 63.11 Notification by and prior approval for U.S. international carriers that are or propose to become affiliated with a foreign carrier.

If a carrier is authorized by the Commission (''authorized carrier'') to provide service between the United States and a particular foreign destination market and it becomes, or seeks to become, affiliated with a foreign carrier that is authorized to operate in that market, then its authorization to provide that international service is conditioned upon notifying the Commission of that affiliation.

(a) Affiliations requiring prior notification: Except as provided in paragraph (b) of this section, the authorized carrier must notify the Commission, pursuant to this section, forty-five days before consummation of either of the following types of transactions:

(1) Acquisition by the authorized carrier, or by any entity that controls the authorized carrier, or by any entity that directly or indirectly owns more than twenty-five percent of the capital stock of the authorized carrier, of a controlling interest in a foreign carrier that is authorized to operate in a market that the carrier is authorized to serve; or

(2) Acquisition of a direct or indirect interest greater than twenty-five percent, or of a controlling interest, in the capital stock of the authorized carrier by a foreign carrier that is authorized to operate in a market that the authorized carrier is authorized to serve, or by an entity that controls such a foreign carrier.

(b) Exceptions.

(1) Notwithstanding paragraph (a) of this section, the notification required by this section need not be filed before consummation, and may instead be filed pursuant to paragraph (c) of this section, if either of the following is true with respect to the named foreign carrier regardless of whether that foreign carrier is authorized to operate in a World Trade Organization (WTO) or non-WTO Member:

(i) The Commission has previously determined in an adjudication that the foreign carrier lacks market power in that destination market (for example, in an international section 214 application or a declaratory ruling proceeding); or

(ii) The foreign carrier owns no facilities in that destination market. For this purpose, a carrier is said to own facilities if it holds an ownership, indefeasible-right-of-user, or leasehold interest in bare capacity in international or domestic telecommunications facilities (excluding switches).

(2) In the event paragraph (b)(1) of this section cannot be satisfied, notwithstanding paragraph (a) of this section, the notification required by this section need not be filed before consummation, and may instead be filed pursuant to paragraph (c) of this section, if the authorized carrier certifies that the named foreign carrier is authorized to operate in a WTO Member and provides certification to satisfy either of the following:

(i) The authorized carrier demonstrates that it is entitled to retain non-dominant classification on its newly affiliated route pursuant to § 63.10; or

(ii) The authorized carrier agrees to comply with the dominant carrier safeguards contained in § 63.10 effective upon the acquisition of the affiliation. See § 63.10.

(c) Notification after consummation. Any authorized carrier that becomes affiliated with a foreign carrier and has not previously notified the Commission pursuant to this section shall notify the Commission within thirty days after consummation of the acquisition.

Example 1 to paragraph (c). Acquisition by an authorized carrier (or by any entity that

directly or indirectly controls, is controlled by, or is under direct or indirect common control with the authorized carrier) of a direct or indirect interest in a foreign carrier that is greater than twenty-five percent but not controlling is subject to paragraph (c) but not to paragraph (a).

Example 2 to paragraph (c). Notification of an acquisition by an authorized carrier of a hundred percent interest in a foreign carrier may be made after consummation, pursuant to paragraph (c), if the foreign carrier operates only as a resale carrier.

Example 3 to paragraph (c). Notification of an acquisition by a foreign carrier from a WTO Member of a greater than twenty-five percent interest in the capital stock of an authorized carrier may be made after consummation, pursuant to paragraph (c) of this section, if the authorized carrier demonstrates in the post-notification that it qualifies for non-dominant classification on the affiliated route or agrees to comply with dominant carrier safeguards on the affiliated route effective upon the acquisition of the affiliation.

(d) Cross-Reference. In the event a transaction requiring a foreign carrier notification pursuant to this section also requires a transfer of control or assignment application pursuant to § 63.18(e)(3), the foreign carrier notification shall reference in the notification the transfer of control or assignment application and the date of its filing. See § 63.18(e)(3).

(e) Contents of notification. The notification shall certify the following information: (1) The name of the newly affiliated foreign carrier and the country or countries in which it is authorized to provide telecommunications services to the public;

(2) Which, if any, of those countries is a Member of the World Trade Organization;

(3) What services the authorized carrier is authorized to provide to each named country, and the FCC file numbers under which each such authorization was granted;

(4) Which, if any, of those countries the authorized carrier serves solely through the resale of the international switched services of unaffiliated U.S. facilities-based carriers;

(5) The name, address, citizenship, and principal business of any person or entity that directly or indirectly owns at least ten (10) percent of the equity of the authorized carrier, and the percentage of equity owned by each of those entities (to the nearest one percent);

(6) A certification that the authorized carrier has not agreed to and will not in the future agree to accept special concessions directly or indirectly from any foreign carrier with respect to any U.S. international route where the foreign carrier possesses market power on the foreign end of the route; and

(7) Interlocking directorates. The name of any interlocking directorates, as defined in § 63.09(g), with each foreign carrier named in the notification. See § 63.09(g).

(8) With respect to each foreign carrier named in the notification, a statement as to whether the notification is subject to paragraph (a) or (c) of this section. In the case of a notification subject to paragraph (a) of this section, the authorized carrier shall include the projected date of closing. In the case of a notification subject to paragraph (c) of this section, the authorized carrier shall include the actual date of closing.

(9) If an authorized carrier relies on an exception in paragraph (b) of this section, then a certification as to which exception the foreign carrier satisfies and a citation to any adjudication upon which the carrier is relying. Authorized carriers relying upon the exceptions in paragraph (b)(2) of this section must make the required certified demonstration in paragraph (b)(2)(i) of this section or the certified commitment to comply with dominant carrier safeguards in paragraph (b)(2)(ii) of this section in the notification required by paragraph (c) of this section.

(f) In order to retain non-dominant status on each newly affiliated route, the authorized carrier should demonstrate that it qualifies for non-dominant classification pursuant to § 63.10. See § 63.10.

(g) Procedure. After the Commission issues a public notice of the submissions made under this section, interested parties may file comments within fourteen days of the public notice.

(1) If the Commission deems it necessary at any time before or after the deadline for submission of public comments, the Commission may impose dominant carrier regulation on the authorized carrier for the affiliated routes based on the provisions of § 63.10. See § 63.10.

(2) In the case of a prior notification filed pursuant to paragraph (a) of this section in which the foreign carrier is authorized to operate in a non-WTO Member, the authorized carrier must demonstrate that it continues to serve the public interest for it to operate on the route for which it proposes to acquire an affiliation with the non-WTO foreign carrier by making the required showing in §§ 63.18(k)(2) or (3) to the Commission. If the authorized carrier is unable to make the required showing in §§ 63.18(k)(2) or (3) or is notified that the affiliation may otherwise harm the public interest pursuant to the Commission's policies and rules, then the Commission may impose conditions necessary to address any public interest harms or may proceed to an immediate authorization revocation hearing. See §§ 63.18(k)(2) and (3).

(h) All authorized carriers are responsible for the continuing accuracy of information provided pursuant to this section for a period of forty-five days after filing. During this period if the information furnished is no longer accurate, the authorized carrier shall as promptly as possible, and in any event within ten days, unless good cause is shown, file with the Secretary in duplicate a corrected notification referencing the FCC file numbers under which the original certification was provided, except that the carrier shall immediately inform the Commission if at any time, not limited to the forty-five days, the representations in the ''special concessions'' certification provided under paragraph (e)(6) of this section or § 63.18(n) are no longer true. See § 63.18(n).

(i) A carrier that files a prior notification pursuant to paragraph (a) of this section may request confidential treatment of its filing, pursuant to § 0.459 of this chapter, for the first twenty days after filing. Such a request must be made prominently in a cover letter accompanying the filing.

* * * * *

4. Section 63.18 is amended by adding two new sentences immediately preceding the last sentence of paragraph (e)(3) to read as follows:

§ 63.18 Contents of applications for international common carriers.

* * * * *

(e) * * *

(3) * * * In the event the transaction requiring a transfer of control or assignment application also requires the filing of a foreign carrier affiliation notification pursuant to § 63.11, the applicant shall reference in the application the foreign carrier affiliation notification and the date of its filing. See § 63.11. * * *

* * * * *

[FR Doc. 00–25980 Filed 10–06–00; 8:45 am]

BILLING CODE 6712–10–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[I.D. 100300B]

Atlantic Highly Migratory Species Fisheries; Atlantic Bluefin Tuna

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Adjustment of General category daily retention limit on previously designated restricted fishing days.

SUMMARY: NMFS has determined that the Atlantic bluefin tuna (BFT) General category restricted fishing day (RFD) schedule should be adjusted; i.e., certain RFDs should be waived in order to allow for maximum utilization of the General category subquota for the October—December fishing period. Therefore, NMFS increases the daily retention limit from zero to one large medium or giant BFT on the following previously designated RFDs for 2000: October 7, 10, 14, and 15.

DATES: Effective October 4, 2000.

FOR FURTHER INFORMATION CONTACT: Pat Scida or Brad McHale, 978–281–9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. General category effort controls (including time-period subquotas and RFDs) are specified annually under 50 CFR 635.23(a) and 635.27(a). The 2000 General category effort controls were specified on July 7, 2000 (65 FR 42883, July 12, 2000).

Adjustment of Daily Retention Limit for Selected Dates

Under 50 CFR 635.23(a)(4), NMFS may increase or decrease the daily retention limit of large medium and giant BFT over a range from zero (on RFDs) to a maximum of three per vessel to allow for maximum utilization of the quota for BFT. Catch rates have continued to vary this season, and NMFS recognizes that at this time of year they can be very dependent on weather conditions. In addition, due to the temporal and geographical nature of the fishery, certain gear types and areas are more productive at various times during the fishery. Based on a review of dealer reports, daily landing trends, the availability of BFT on the fishing grounds, and weather conditions, NMFS has determined that adjustment to the RFD schedule, and, therefore, an increase of the daily retention limit for certain previously designated RFDs, is necessary. Therefore, NMFS adjusts the daily retention limit for October 7, 10, 14, and 15, 2000, to one large medium or giant BFT per vessel. NMFS has selected these days in order to give adequate advance notice to fishery participants and NMFS enforcement.

The intent of this adjustment is to allow for maximum utilization of the General category subquotas for the October—December fishing period (specified under 50 CFR 635.27(a)) by General category participants in order to help achieve optimum yield in the General category fishery, to collect a broad range of data for stock monitoring purposes, and to be consistent with the objectives of the Fishery Management Plan for Atlantic Tunas, Swordfish and Sharks. For these same reasons, NMFS has already adjusted the General category daily retention limit for ten previously scheduled RFDs in July and August (65 FR 46654, July 31, 2000), and six previously scheduled RFDs in September (65 FR 54970, September 12, 2000). The remaining previously scheduled RFD (which has not been waived) corresponds to a market closure in Japan, and could promote better ex-vessel prices.

Classification

This action is taken under 50 CFR 635.23(a)(4) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: October 4, 2000.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 00–25958 Filed 10–4–00; 4:45 pm]

BILLING CODE: 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 991228354–0078–02; I.D. 100300A]

RIN 0648-AM49

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; 2000 Specifications Adjustment

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Inseason adjustment of Loligo squid annual specifications; announcement of a limited directed fishery and subsequent closure.

SUMMARY: NMFS announces that the Regional Administrator, Northeast Region, NMFS (Regional Administrator), is increasing the annual specifications for *Loligo* squid, including allowable biological catch (ABC), initial optimum yield (IOY), domestic annual harvest (DAH) and domestic annual processing (DAP), from 13,000 metric tons (mt) to 15,000 mt. The regulations governing the Atlantic mackerel, squid and butterfish fisheries require notice to provide interested parties the opportunity to comment on the adjustments. NMFS also announces that the Period III directed *Loligo* squid commercial fishery in the exclusive economic zone (EEZ) is reopened until 0001 hours October 26, 2000, as a result of this adjustment.

DATES: The Period III directed Loligo squid commercial fishery in the EEZ is reopened effective October 7, 2000, through October 25, 2000. Effective 0001 hours, October 26, 2000, the directed fishery for Loligo squid will close through December 31, 2000. Comments on the *Loligo* squid inseason adjustment notice must be received by November 9, 2000.

ADDRESSES: Comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark on the outside of the envelope ''Comments on Adjustment of *Loligo* Squid Annual Specifications.''

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, 978–281–9273, fax 978–281–9135, e-mail paul.h.jones@noaa.gov.

SUPPLEMENTARY INFORMATION: On March 28, 2000, NMFS published final 2000

initial specifications for the Atlantic mackerel, squid, and butterfish fisheries at 65 FR 16341. The *Loligo* squid specifications were established as follows: 26,000 mt maximum optimum yield (Max OY); 13,000 mt ABC, IOY, DAH and DAP; 0 mt joint venture processing (JVP); and 0 mt total allowable level of foreign fishing (TALFF). The final rule also specified that the *Loligo* squid IOY of 13,000 mt be subdivided into three, 4-month quota periods (Period I (Jan-Apr)—5,460 mt, Period II (May-Aug)—2,340 mt, and Period III (Sep-Dec)—5,200 mt). This quota is made available to the directed fishery until 95 percent of the annual allocation is landed. When landings reach that level, the directed fishery is closed and incidental landings only are allowed, with a limit of 2,500 lb (1.13 mt) per trip.

The most recent assessment of the *Loligo* stock (29th Northeast Regional Stock Assessment Workshop, August 1999 (SAW–29)) concluded that the stock was approaching an overfished condition and overfishing was occurring. The control rule adopted in Amendment 8 to the FMP assumes a linear relationship between biomass levels and fishing mortality rate (F), and implies that, at the current biomass levels, F should be reduced to near zero. However, SAW–29 projections indicated that the control rule is overly conservative, and that, given the nature of the stock, the biomass can rebuild in a relatively short time, even at fishing mortality rates approaching FMSY. Consistent with this advice, the initial specifications for 2000 were set at 90 percent of FMSY, or 13,000 mt.

The most recent data from the NMFS research survey for *Loligo* squid indicate that abundance of this species has increased significantly since the most recent assessment was conducted (SAW–29). Estimates of biomass based on NMFS' Northeast Fisheries Science Center autumn 1999 and spring 2000 survey indices for *Loligo* squid indicate that the stock is currently at, or near, the biomass level that produces maximum sustainable yield (Bmsy).

Section 648.21(e) allows the Regional Administrator, in consultation with the Council, to recommend inseason adjustments to the annual specifications during the fishing year by publishing notification in the **Federal Register** and providing a 30-day public comment period. Accordingly, based on the new survey data, the Council requested that NMFS process an inseason action to adjust the annual specifications for *Loligo* squid, including ABC, IOY, DAH and DAP, from 13,000 mt to 15,000 mt. Given the short-lived nature of this species (1 year) and the most recent survey information, the 2,000-mt increase is justified. Quota Periods I and II are closed to directed fishing when 90 percent of each allocation is harvested, directed fishing for the remainder of the year is ended when 95 percent of the annual DAH is reached. Due to overages in Period I and II in 2000, only approximately 720 mt will be available for harvest by the directed fishery for the remainder of this fishing year, even with the 2,000-mt adjustment. However, the additional allocation will provide the industry with an additional fishing opportunity in Period III and keep vessels from fishing for other, less robust species. Max OY remains at 26,000 mt, and JVP and TALFF remain at 0 mt.

2000 Final Specifications

The following table contains the final adjusted specifications for the 2000 Atlantic mackerel, *Loligo* and *Illex* squids, and butterfish fisheries.

TABLE 1. FINAL ANNUAL SPECIFICATIONS FOR ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FOR THE FISHING YEAR JANUARY 1 THROUGH DECEMBER 31, 2000.

Metric Tons (mt)

Specifications	Squid		Atlantic Mackerel	Butterfish
	Loligo	Illex		
MAX OY	26,000	24,000	N/A[1]	16,000
ABC	15,000	24,000	347,000	7,200
IOY	15,000	24,000	75,000[2]	5,900
DAH	15,00	24,000	75,000[3]	5,900
DAP	15,00	24,000	50,000	5,900
JVP	0	0	10,000[4]	0
TALFF	0	0	0	0

[1]Not applicable.
[2]OY may be increased during the year, but the total ABC will not exceed 347,000 mt.
[3]Includes 15,000 mt of Atlantic mackerel recreational allocation.
[4]JVP may be increased up to 15,000 mt at discretion of the Regional Administrator.

Reopening of the Period III Loligo Squid Commercial Fishery

Section 648.22 requires the closure of the directed Loligo squid fishery in the EEZ when 95 percent of the total annual DAH *Loligo* squid has been harvested. NMFS is further required to notify, in advance of the closure, the Executive Directors of the Mid-Atlantic, New England, and South Atlantic Fishery Management Councils; mail notification of the closure to all holders of *Loligo* squid permits at least 72 hours before the effective date of the closure; provide adequate notice of the closure to recreational participants in the fishery; and publish notification of the closure in the **Federal Register**.

NMFS issued a notification in the **Federal Register** on September 6, 2000 (65 FR 53940), announcing that the directed fishery for *Loligo* squid in the EEZ would close on September 7, 2000. This inseason adjustment will reopen the fishery effective 0001 hours, October 7, 2000. Based on the rate of fishing in the *Loligo* fishery in prior years, NMFS has determined that 95 percent of the total annual DAH for *Loligo* squid will be harvested by October 25, 2000. Therefore, vessels issued a commercial Federal fisheries permit for the *Loligo* squid fishery may land *Loligo* squid effective 0001 hours, October 7, 2000, through October 25, 2000. Effective 0001 hours, October 26, 2000, the directed fishery for *Loligo* squid will close and vessels issued Federal permits for *Loligo* squid may not retain or land more than 2,500 lb (1.13 mt) of *Loligo* per trip. The directed fishery will reopen effective 0001 hours, January 1, 2001, which is the beginning of the Period I quota for the 2001 fishing year.

Classification

This action is required by 50 CFR part 648 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 3, 2000.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 00–25939 Filed 10–4–00; 4:45 pm]

BILLING CODE: 3510–22 –S

Proposed Rules

Federal Register
Vol. 65, No. 196
Tuesday, October 10, 2000

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 905 and 944

[Docket No. FV99–905–5 PR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida and Imported Grapefruit; Clarification of Inspection Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would clarify inspection requirements for shipments of Florida citrus and imports of grapefruit. The handling of citrus grown in Florida is regulated under a marketing order administered locally by the Citrus Administrative Committee (Committee). Grapefruit imports are subject to an import regulation issued under section 8e of the Agricultural Marketing Agreement Act of 1937. This change would specify in the regulations undersize tolerances for Florida citrus and imported grapefruit that are currently applied by the inspection service, and would clarify the regulations. This change would also renumber citations in the domestic and import regulations to reflect revisions to the numbering of the United States Standards for Grades of Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida.

DATES: Comments must be received by December 11, 2000.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 720–5698; or E-mail: moab.docketclerk@usda.gov. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: William G. Pimental, Marketing Specialist, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883–2276; telephone: (863) 299–4770, Fax: (863) 299–5169; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Agreement No. 84 and Marketing Order No. 905, both as amended (7 CFR part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

This proposed rule is also issued under section 8e of the Act, which provides that whenever certain specified commodities, including grapefruit, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodities.

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

The order for Florida citrus provides for the establishment of minimum grade and size requirements with the concurrence of the Secretary. The minimum grade and size requirements are designed to provide fresh markets with fruit of acceptable quality and size, thereby maintaining consumer confidence for fresh Florida citrus. Maintaining confidence in the commodity shipped contributes to stable marketing conditions in the interest of growers, handlers, and consumers, and helps increase returns to Florida citrus growers.

Section 905.52 of the order, in part, authorizes the Committee to recommend minimum grade and size requirements to the Secretary. Section 905.306 specifies minimum grade and size requirements for different varieties of fresh Florida citrus. Such regulations may be modified, suspended, or terminated under § 905.52. Section 905.53 specifies that whenever the handling of a variety of a type of fruit is regulated pursuant to § 905.52, each handler who handles any such type of fruit shall, prior to such handling of any lot of such variety, cause the lot to be inspected by the Federal-State Inspection Service and certified as

meeting all applicable requirements of that regulation.

This proposed rule would clarify inspection requirements for oranges, grapefruit, tangerines, and tangelos grown in Florida and imported grapefruit. Current inspection procedures allow undersize tolerances for domestic shipments of Florida citrus failing to meet minimum size regulations under the order. These procedures also allow undersize tolerances for imported grapefruit failing to meet minimum size requirements established under the grapefruit import regulation. Specifically, these procedures allow for a 10 percent tolerance for undersize fruit in each lot and a 15 percent tolerance for undersize fruit in any individual sample. Undersize tolerances allow for variations to proper sizing and reduce handler packing costs. This change would specify these inspection procedures in the order's rules and regulations and in the grapefruit import regulation. The Committee unanimously recommended specifying the undersize tolerances for Florida citrus in the regulations at a meeting on April 6, 1999.

Paragraph (c) of § 905.306 currently references sections of the United States Standards for Grades of Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida with the intention of providing tolerances for undersized fruit. However, the sections specified reference grade defects, not size tolerances. Therefore, specific undersize tolerances for Florida grown oranges, grapefruit, tangerines, and tangelos would be added to the text of the regulations.

Paragraph (c) of § 905.306 would be revised to allow for a 10 percent tolerance for undersized fruit in each lot and a 15 percent tolerance for undersized fruit in any individual sample. Additionally, paragraph (c) of § 944.106 of the grapefruit import regulation would also be revised to reference the undersize tolerances specified in paragraph (c) of § 905.306 to recognize current inspection procedures.

This rule would also renumber citations in the order to reflect the revised United States Standards for Grades of Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida. Effective August 1, 1996, the various grade standards for Florida citrus were amended. Some sections of the amended standards were renumbered. This action would renumber some section references to the U.S. grade standards in §§ 905.146 and 905.306 to bring them into conformity with the renumbered sections in the amended standards.

Similar changes also would be made in paragraph (c) of § 944.106 of the grapefruit import regulation issued under section 8e of the Act. That section provides that when certain domestically produced commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements. The grapefruit import regulation is based on the requirements issued under the marketing order for Florida citrus. Accordingly, a corresponding change to the grapefruit import regulation would be necessary.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the AMS has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility. Import regulations issued under the Act are based on those established under Federal marketing orders.

There are approximately 100 Florida citrus handlers subject to regulation under the marketing order, about 11,000 Florida citrus producers in the regulated area, and about 25 grapefruit importers. Small agricultural service firms, which include handlers and importers, have been defined by the Small Business Administration (13 CFR 121.201) as those whose annual receipts are less than $5,000,000, and small agricultural producers are defined as those whose annual receipts are less than $500,000.

Based on the Florida Agricultural Statistics Service and Committee data for the 1998–99 season, the average annual f.o.b. price for fresh Florida citrus during the 1998–99 season was $8.66 per 4/5 bushel carton for all shipments, and the total shipments for the 1998–99 season were 63.6 million cartons of citrus. Using information provided by the Committee, about 60 percent of citrus handlers could be considered small businesses under the SBA definition, and the Department believes that the majority of Florida citrus producers and grapefruit importers may be classified as small entities.

Section 905.52 of the order, in part, authorizes the Committee to recommend minimum grade and size requirements to the Secretary. Section 905.306 specifies minimum grade and size requirements for different varieties of fresh Florida citrus. Section 905.53 specifies that whenever the handling of a variety of a type of fruit is regulated pursuant to § 905.52, each handler who handles any such type of fruit shall, prior to such handling of any lot of such variety, cause the lot to be inspected by the Federal-State Inspection Service and certified as meeting all applicable requirements of that regulation.

This proposed rule would clarify inspection requirements for oranges, grapefruit, tangerines, and tangelos grown in Florida and imported grapefruit. Current inspection procedures allow for a 10 percent tolerance for undersize fruit in each lot and a 15 percent tolerance for undersize fruit in any individual sample for both domestic and import shipments. This action would add to undersize tolerances to the order's rules and regulations and in the import regulation for grapefruit. This change would also renumber citations in the order to reflect revisions in the United States Standards for Grades of Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida made in August 1996. Similar changes would also be made to the grapefruit import regulation issued under section 8e of the Act.

This rule would have a positive impact on affected entities. This action would enhance the understandability of the text of the regulations. The undersize tolerances allow for variations to proper sizing and reduce handler packing costs. Without such tolerances, more fruit would fail to meet minimum size requirements without reconditioning, and handler packing costs would increase accordingly. Thus, the tolerances help facilitate shipments of Florida citrus. The Committee unanimously recommended specifying the undersize tolerances for Florida citrus in the regulations at a meeting on April 6, 1999.

During the period January 1, 1999, through December 31, 1999, imports of grapefruit totaled 19,400,000 pounds (approximately 456,470 cartons). Recent yearly data indicate that imports from May through November are typically negligible. Future imports should not vary significantly from the 19,400,000 pounds. The Bahamas were the principal source of imported grapefruit, accounting for 93 percent of the total. Israel, Mexico, and Turkey supplied

remaining imports. Most imported grapefruit enters the United States from November through May.

With regard to alternatives, this action offers the best alternative to achieve the intended purpose of clarifying the inspection requirements.

This rule would not impose any additional reporting or recordkeeping requirements on either small or large Florida citrus handlers and importers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sectors. In addition, the Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule. However, Florida citrus must meet the requirements specified in the U.S. standards for the various types of citrus grown in Florida issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 through 1627).

Further, the Committee's meeting was widely publicized throughout the Florida citrus industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the April 6, 1999, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and speciality crop marketing agreements and orders may be viewed at the following website: http://www.ams.usda.gov/fv/moab.html. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this proposed rule.

A 60-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects

7 CFR Part 905

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements, Tangelos, Tangerines.

7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwifruit, Limes, Olives, Oranges.

For the reasons set forth above, 7 CFR Parts 905 and 944 are proposed to be amended as follows:

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

1. The authority citation for 7 CFR Parts 905 and 944 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. In § 905.146, paragraph (c)(1) is revised to read as follows:

§ 905.146 Special purpose shipments.

* * * * *

(c) * * *

(1) Such fruit meets the requirements of U. S. No. 2 Russet grade and those requirements of U. S. No. 1 grade relating to shape (form), as such requirements are set forth in the revised U. S. Standards for Grades of Florida Oranges and Tangelos (7 CFR 51.1140 through 51.1179), the revised Standards for Florida Tangerines (7 CFR 51.1810 through 51.1837), or the revised U. S. Standards for Grades of Florida Grapefruit (7 CFR 51.750 through 51.784). Such fruit also meets applicable minimum size requirements in effect for domestic shipments of citrus fruits.

* * * * *

4. In § 905.306, paragraphs (c) and (d) are revised to read as follows:

§ 905.306 Orange, Grapefruit, Tangerine and Tangelo Regulation.

* * * * *

(c) *Size tolerances.* To allow for variations incident to proper sizing in the determination of minimum diameters as prescribed in Tables I and II, not more than 10 percent, by count, of the fruit in any lot of containers may fail to meet the minimum diameter size requirements, and not more than 15 percent, by count, in any individual sample may fail to meet the minimum diameter size requirements specified: *Provided,* That such tolerances for other than Navel and Temple oranges shall be based only on the oranges in the lot measuring 2-14/16 inches or smaller in diameter.

(d) Terms used in the marketing order including Improved No. 2 grade for grapefruit, when used herein, mean the same as is given to the terms in the order; Florida No. 1 grade for Honey tangerines means the same as provided in Rule No. 20–35.03 of the Regulations of the Florida Department of Citrus, and terms relating to grade, except Improved No. 2 grade for grapefruit and diameter, shall mean the same as is given to the terms in the revised U.S. Standards for Grades of Florida Oranges and Tangelos (7 CFR 51.1140–51.1179), the revised U.S. Standards for Florida Tangerines (7 CFR 51.1810–51.1837), or the revised U.S. Standards for Grades of Florida Grapefruit (7 CFR 51.750–51.784).

PART 944—FRUITS; IMPORT REGULATIONS

5. In § 944.106, paragraph (c) is revised to read as follows:

§ 944.106 Grapefruit import regulation.

* * * * *

(c) Terms and tolerances pertaining to grade and size requirements, which are defined in the United States. Standards for Grades of Florida Grapefruit (7 CFR 51.750–51.784), and in Marketing Order No. 905 (7 CFR 905.18 and 905.306), shall be applicable herein.

* * * * *

Dated: October 3, 2000.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00–25946 Filed 10–6–00; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Parts 563b and 575

[No. 2000–57]

RIN 1550–AB24

Mutual Savings Associations, Mutual Holding Company Reorganizations, Conversions From Mutual to Stock Form

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Office of Thrift Supervision (OTS) is extending the comment period until November 9, 2000 for its proposed rule regarding mutual savings associations, mutual holding company reorganizations, and conversions from mutual to stock form published on July 12, 2000.

DATES: Comments must be received by November 9, 2000.

ADDRESSES:

Mail: Send comments to Manager, Dissemination Branch, Information Management and Services Division,

Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention Docket No. 2000–57.

Delivery: Hand deliver comments to the Guard's Desk, East Lobby Entrance, 1700 G Street, NW., from 9:00 a.m. to 4:00 p.m. on business days, Attention Docket No. 2000–57.

Facsimiles: Send facsimile transmissions to FAX Number (202) 906–7755, Attention Docket No. 2000–57; or (202) 906–6956 (if comments are over 25 pages).

E-Mail: Send e-mails to ''public.info@ots.treas.gov'', Attention Docket No. 2000–57, and include your name and telephone number.

Public Inspection: Interested persons may inspect comments at the Public Reference Room, 1700 G St. NW., from 10:00 a.m. until 4:00 p.m. on Tuesdays and Thursdays or obtain comments and/or an index of comments by facsimile by telephoning the Public Reference Room at (202) 906–5900 from 9:00 a.m. until 5:00 on business days. Comments and the related index will also be posted on the OTS Internet Site at ''www.ots.treas.gov''.

FOR FURTHER INFORMATION CONTACT: David A. Permut, Counsel (Business and Finance) (202) 906–7505, Business Transactions Division, Chief Counsel's Office; Timothy P. Leary, Counsel (Banking and Finance) (202) 906–7170, Regulations and Legislation Division, Chief Counsel's Office; Mary Jo Johnson, Project Manager, (202) 906–5739, Supervision Policy, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: The proposed rule and interim final rule, published in the **Federal Register** on July 12, 2000 (65 FR 43092 and 43088), indicated that public comments were to be submitted to the OTS no later than October 10, 2000. OTS has received a request for an extension of the comment period to accommodate the views of a number of mutual institution managers who will be meeting in the next 30 days. In order to afford the public adequate time to comment, the OTS has determined to extend the comment period for 30 days to accommodate this request. Therefore, the comment period is hereby extended until November 9, 2000.

Dated: October 4, 2000.

By the Office of Thrift Supervision.

Ellen Seidman,

Director.

[FR Doc. 00–25943 Filed 10–6–00; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–157–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767 Series Airplanes Powered by General Electric or Pratt & Whitney Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 767 series airplanes powered by General Electric or Pratt & Whitney engines. This proposal would require repetitive inspections to detect discrepancies of the aft-most fastener holes in the horizontal tangs of the midspar fitting of the strut, and corrective actions, if necessary. This proposal also provides for optional terminating action for the repetitive inspections. This action is necessary to prevent fatigue cracking in primary strut structure and reduced structural integrity of the strut, which could result in separation of the strut and engine. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by November 24, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–157–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–157–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: James Rehrl, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2783; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.,* reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–157–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–157–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report indicating fatigue cracking of an inboard midspar fitting on the number two pylon of a Boeing Model 767 series airplane powered by General Electric engines. The crack was detected during replacement of a midspar fitting bushing, and the airplane had accumulated 21,375 total flight hours and 11,563 total flight cycles. A cracked midspar fitting could result in a fractured fitting and drooping of the strut at the strut-to-wing interface. Structural assessment indicates that the actual operational loads applied to the nacelle strut and wing structure are higher than the analytical loads that were used during the initial design. Subsequent analysis and service history, which includes numerous reports of fatigue cracking on certain strut and wing structure, indicate that fatigue cracking can occur on the primary strut structure before an airplane reaches its design service objective of 20 years or 50,000 total flight cycles. Analysis also indicates that such cracking, if it were to occur, would grow at a much greater rate than originally expected. This condition, if not corrected, could result in reduced structural integrity of the strut and separation of the strut and engine.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletin 767–54A0101, Revision 1, dated February 3, 2000, which describes procedures for accomplishment of either repetitive detailed visual or high frequency eddy current inspections to detect discrepancies (cracking, incorrect fastener hole diameter), of the aft-most fastener holes in the horizontal tangs of the midspar fitting of the strut, and corrective actions. The corrective actions consist of rework of the aft-most fastener holes or replacement of the midspar fittings of the strut. The service bulletin references the strut improvement program (SIP) for accomplishment of the replacement. The service bulletin also specifies contacting the manufacturer for accomplishment of certain repairs. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between Proposed Rule and Service Bulletin

Operators should note that, although the service bulletin describes procedures for inspections of the two aft-most fastener holes of the midspar fitting to detect cracking, this proposed AD would require inspections of the four aft-most fastener holes of the midspar fitting. The FAA has determined that this is necessary due to the service history of cracking on the Model 747 series airplane midspar fittings, which are made of the same material as the midspar fittings on the Model 767 series airplane and are also subject to similar loading conditions.

Operators also should note that, although the service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions; this proposed AD would require the repair of those conditions to be accomplished in accordance with a method approved by the FAA, or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the FAA to make such findings.

This proposed AD also would allow operators the option, if cracking is detected, of either repair of the midspar fitting or replacement with a serviceable fitting in accordance with a method approved by the FAA. This is due to the fact that parts are not always readily available and operators required to accomplish the strut improvement program before further flight could have a problem obtaining these parts.

Cost Impact

There are approximately 636 Model 767 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 235 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 1 work hour per airplane to accomplish the proposed detailed visual inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed inspection on U.S. operators is estimated to be $14,100, or $60 per airplane, per inspection cycle.

It would take approximately 3 work hours per airplane to accomplish the proposed eddy current inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed inspection on U.S. operators is estimated to be $42,300, or $180 per airplane, per inspection cycle.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 2000–NM–157–AD.

Applicability: Model 767 series airplanes, certificated in any category, as listed in Boeing Service Bulletin 767–54A0101, Revision 1, dated February 3, 2000.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking in primary strut structure and reduced structural integrity of the strut, which could result in separation of the strut and engine, accomplish the following:

Repetitive Inspections/Corrective Actions

(a) Before the accumulation of 10,000 total flight cycles, or within 600 flight cycles after the effective date of this AD, whichever occurs later: Accomplish the inspections required by paragraph (a)(1) or (a)(2) of this AD, as applicable.

(1) Perform a detailed visual inspection of the four aft-most fastener holes in the horizontal tangs of the midspar fitting of the strut to detect cracking, in accordance with Part 1, ''Detailed Visual Inspection,'' of the Accomplishment Instructions of Boeing Service Bulletin 767–54A0101, Revision 1, dated February 3, 2000. If no cracking is detected, repeat the inspection thereafter at the applicable intervals specified in Table 1, ''Reinspection Intervals for Part 1—Detailed Visual Inspection'' included in Figure 1 of the service bulletin.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

(2) Perform a high frequency eddy current inspection of the four aft-most fastener holes in the horizontal tangs of the midspar fitting of the strut to detect discrepancies (cracking, incorrect fastener hole diameter), in accordance with Part 2, ''High Frequency Eddy Current (HFEC) Inspection,'' of the Accomplishment Instructions of the service bulletin. Accomplish the requirements specified in paragraph (a)(2)(i) or (a)(2)(ii) of this AD, as applicable; and repeat the inspection thereafter at the applicable intervals specified in Table 2, ''Reinspection Intervals for Part 2—HFEC Inspection'' included in Figure 1 of the service bulletin.

(i) If no cracking is detected and the fastener hole diameter is less than or equal to 0.5322 inch, rework the hole in accordance with Part 3 of the Accomplishment Instructions of the service bulletin.

(ii) If no cracking is detected and the fastener hole diameter is greater than 0.5322 inch, accomplish the requirements specified in either paragraph (b)(1) or (b)(2) of this AD.

(b) If any cracking is detected after accomplishment of any inspection required by paragraph (a) of this AD, before further flight, accomplish the requirements specified in either paragraph (b)(1) or (b)(2) of this AD.

(1) Accomplish the terminating action specified in Part 4 of the Accomplishment Instructions of Boeing Service Bulletin 767–54A0101, Revision 1, dated February 3, 2000. Accomplishment of this paragraph terminates the requirements of this AD.

(2) Replace the midspar fitting of the strut with a serviceable part, or repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Repeat the applicable inspection thereafter at the applicable time specified in paragraph (a)(1) or (a)(2) of this AD.

(c) If any discrepancies (cracking, incorrect fastener hole diameter) are detected after accomplishment of any inspection required by paragraph (a) of this AD, for which the service bulletin specifies that the manufacturer may be contacted for disposition of those repair conditions: Before further flight, accomplish the corrective actions (including fastener hole rework and/or midspar fitting replacement) in accordance with a method approved by the Manager, Seattle ACO; or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permit

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on October 3, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–25968 Filed 10–6–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–127–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767 Series Airplanes Powered by General Electric Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 767 series airplanes powered by General Electric engines. This proposal would require modification of the nacelle strut and wing structure. This proposal is prompted by reports indicating that the actual operational loads applied to the nacelle are higher than the analytical loads that were used during the initial design. Such an increase in loading can lead to fatigue cracking in the primary strut structure prior to an airplane reaching its design service objective. The actions specified by the proposed AD are intended to prevent fatigue cracking in the primary strut structure and consequent reduced structural integrity of the strut.

DATES: Comments must be received by November 24, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–127–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm–nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 99–NM–127–AD'' in the subject line and need not be submitted in triplicate. Comments sent

via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: James G. Rehrl, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2783; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–127–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–127–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports indicating that the airplane manufacturer has accomplished a structural reassessment of the damage tolerance capabilities of the Boeing Model 767 series airplane powered by General Electric engines. This reassessment indicates that the actual operational loads applied to the nacelle strut and wing structure are higher than the analytical loads that were used during the initial design. Subsequent analysis and service history, which includes numerous reports of fatigue cracking on certain strut and wing structure, indicate that fatigue cracking can occur on the primary strut structure before an airplane reaches its design service objective of 20 years or 50,000 flight cycles. Analysis also indicates that such cracking, if it were to occur, would grow at a much greater rate than originally expected. Fatigue cracking in the primary strut structure would result in reduced structural integrity of the strut.

Explanation of Relevant Service Information

Boeing recently has developed a modification of the strut-to-wing attachment structure installed on Model 767 series airplanes powered by General Electric engines. This modification significantly improves the load-carrying capability and durability of the strut-to-wing attachments. Such improvements also will substantially reduce the possibility of fatigue cracking and corrosion developing in the attachment assembly.

The FAA has reviewed and approved Boeing Service Bulletin 767–54–0081, dated July 29, 1999, which describes procedures for modification of the nacelle strut and wing structure. The modification consists of replacing many of the significant load-bearing components of the strut and wing (e.g., the side link fittings, the midspar fittings, the side load fittings, certain fuse pins assemblies, etc.) with improved components.

The service bulletin contains a formula for calculating an optional compliance threshold for the specified modification. This formula is intended to be used as an alternative to the 20-year calendar threshold specified in the service bulletin.

In addition, Table 2 of the service bulletin also identifies six related service bulletin modifications that must be accomplished before or at the same time as the modification in Boeing Service Bulletin 767–54–0081:

- *Boeing Service Bulletin 767–29–0057:* The FAA has reviewed and approved Boeing Service Bulletin 767–29–0057, dated December 16, 1993, which describes procedures for modification of the electrical wiring support of the alternating current motor pump of the main hydraulic power system. The modification involves installing new band clamps and index-straps, and on certain airplanes, installing new wire support brackets on the strut bulkhead.
- *Boeing Service Bulletin 767–54–0069:* The FAA has reviewed and approved Boeing Service Bulletin 767–54–0069, Revision 1, dated January 29, 1998, which describes procedures for rework of the side load fitting and tension fasteners, as applicable, and replacement of midspar fuse pins with new, higher-strength midspar fuse pins. The rework involves increasing the size of the tension bolts of the inboard and outboard side load fittings. The replacement also involves installing new, higher-strength bolts and radius fillers in the side load fittings and backup support structure, and installing higher-strength fasteners common to the front spar and rib number 8 rib post.
- *Boeing Service Bulletin 767–54–0083:* The FAA has reviewed and approved Boeing Service Bulletin 767–54–0083, dated September 17, 1998, which describes procedures for replacement of the upper link with a new, improved part that will increase the strength and durability of the upper link installation. That service bulletin also describes procedures for modification of the wire support bracket attached to the upper link.
- *Boeing Service Bulletin 767–54–0088:* The FAA has reviewed and approved Boeing Service Bulletin 767–54–0088, Revision 1, dated July 29, 1999, which describes procedures for replacement of the upper link fuse pin and aft pin with new, improved pins that will increase the strength and durability of the upper link installation.
- *Boeing Service Bulletin 767–54A0094:* The FAA has previously reviewed and approved Boeing Service Bulletin 767–54A0094, Revision 1, dated September 16, 1999. This service bulletin is referenced as the appropriate service information for accomplishing the actions required in AD 2000–07–05, amendment 39–11659, which was issued March 31, 2000 (65 FR 18883, April 10, 2000). This service bulletin describes procedures for repetitive detailed visual inspections to detect cracking of the one-piece diagonal brace of the forward and aft lugs, and corrective actions, if necessary. The corrective actions involve installing a new, three-piece diagonal brace, which eliminates the need for the repetitive inspections. The service bulletin also describes procedures for rework of the three-piece diagonal brace, which

increases the inspection intervals of the three-piece diagonal brace.

• *Boeing Service Bulletin 767–57–0053:* Boeing Service Bulletin 767–54–0081 lists Boeing Service Bulletin 767–57–0053, Revision 1, however, the FAA has previously reviewed and approved Boeing Service Bulletin 767–57–0053, Revision 2, dated September 23, 1999. This service bulletin is referenced as the appropriate source of service information for accomplishing the actions required in AD 2000–12–17, amendment 39–11795, which was issued June 9, 2000 (65 FR 37843, June 19, 2000). Revision 1 also is acceptable for compliance with the requirements in that AD. Revision 2 of the service bulletin describes procedures for repetitive ultrasonic and eddy current inspections of the pitch load fitting lugs of the wing front spar for cracking, and rework of the fitting, if necessary.

Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletins described previously, except as discussed below.

Differences Between Proposed Rule and Service Bulletin

Operators should note that, although Boeing Service Bulletin 767–54–0081 specifies that the manufacturer may be contacted for disposition of certain damage conditions that may be detected during accomplishment of the modification, this proposal would require the repair of those conditions to be accomplished in accordance with a method approved by the FAA.

Cost Impact

There are approximately 381 airplanes of the affected design in the worldwide fleet. The FAA estimates that 159 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1,006 work hours, including time for gaining access and closing up, per airplane to accomplish the proposed modification in Boeing Service Bulletin 767–54–0081, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $9,597,240, or $60,360 per airplane.

It would take approximately 16 work hours per airplane to accomplish the proposed actions described in Boeing Service Bulletin 767–29–0057, at an average labor rate of $60 per work hour. Required parts would be provided at no cost by the airplane manufacturer. Based on these figures, the cost impact of these proposed actions on U.S. operators is estimated to be $152,640, or $960 per airplane.

It would take approximately 106 work hours per airplane to accomplish the actions described in Boeing Service Bulletin 767–53–0069, Revision 1, at an average labor rate of $60 per work hour. Required parts would be provided at no cost by the airplane manufacturer. Based on these figures, the cost impact of these proposed actions on U.S. operators is estimated to be $1,011,240, or $6,360 per airplane.

It would take approximately 1 work hour per airplane to accomplish the actions described in Boeing Service Bulletin 767–54–0083, at an average labor rate of $60 per work hour. Required parts would be provided at no cost by the airplane manufacturer. Based on these figures, the cost impact of these proposed actions on U.S. operators is estimated to be $9,540, or $60 per airplane.

It would take approximately 4 work hours per airplane to accomplish the actions described in Boeing Service Bulletin 767–54–0088, Revision 1, at an average labor rate of $60 per work hour. Required parts would be provided at no cost by the airplane manufacturer. Based on these figures, the cost impact of these proposed actions on U.S. operators is estimated to be $38,160, or $240 per airplane.

It would take approximately 20 work hours per airplane to accomplish the proposed actions described in Boeing Service Bulletin 767–54A0094, Revision 1, at an average labor rate of $60 per work hour. Required parts would be provided at no cost by the airplane manufacturer. Based on these figures, the cost impact of these proposed actions on U.S. operators is estimated to be $190,800, or $1,200 per airplane. Because the actions described in this service bulletin are already required by another AD action, this proposed requirement would add no new costs for affected operators.

It would take approximately 5 work hours per airplane to accomplish the proposed actions described in Boeing Service Bulletin 767–57–0053, Revision 2, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of these proposed actions on U.S. operators is estimated to be $47,700, or $300 per airplane. Because the actions described in this service bulletin are already required by another AD action, this proposed requirement would add no new costs for affected operators.

Some operators may have accomplished certain modifications on some or all of the airplanes in their fleets, while other operators may not have accomplished any of the modifications on any of the airplanes in their fleets. As indicated earlier in this preamble, the FAA invites comments specifically on the overall economic aspects of this proposed rule.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the

Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 99–NM–127–AD.

Applicability: Model 767 series airplanes powered by General Electric engines, line numbers 1 through 663 inclusive, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking in the primary strut structure and consequent reduced structural integrity of the strut, accomplish the following:

Modification

(a) Modify the nacelle strut and wing structure on both the left and right sides of the airplane, in accordance with Boeing Service Bulletin 767–54–0081, dated July 29, 1999, at the later of the times specified in paragraphs (a)(1) and (a)(2) of this AD.

(1) Prior to the accumulation of 37,500 total flight cycles, or within 20 years since date of manufacture, whichever occurs first. Use of the optional threshold formula described in Figure 1 on page 54 of the service bulletin is an acceptable alternative to the 20-year threshold provided that the conditions specified in Figure 1 of the service bulletin are met.

(2) Within 3,000 flight cycles after the effective date of this AD.

(b) Prior to or concurrently with the accomplishment of the modification of the nacelle strut and wing structure required by paragraph (a) of this AD; as specified in paragraph 1.D., Table 2, ''Prior or Concurrent Service Bulletins,'' on page 8 of Boeing Service Bulletin 767–54–0081, dated July 29, 1999; accomplish the actions specified in Boeing Service Bulletin 767–29–0057, dated December 16, 1993; Boeing Service Bulletin 767–54–0069, Revision 1, dated January 29, 1998; Boeing Service Bulletin 767–54–0083, dated September 17, 1998; Boeing Service Bulletin 767–54–0088, Revision 1, dated July 29, 1999; Boeing Service Bulletin 767–54A0094, Revision 1, dated September 16, 1999; and Boeing Service Bulletin 767–57–0053, Revision 2, dated September 23, 1999; as applicable, in accordance with those service bulletins.

Note 2: AD 2000–12–17, amendment 39–11795, requires accomplishment of Boeing Service Bulletin 767–57–0053, Revision 2, dated September 23, 1999. However, inspections and rework accomplished in accordance with Boeing Service Bulletin 767–57–0053, Revision 1, dated October 31, 1996, are acceptable for compliance with the applicable actions required by paragraph (b) of this AD.

Note 3: AD 2000–07–05, amendment 39–11659, requires accomplishment of Boeing Service Bulletin 767–54A0094, dated May 22, 1998. However, inspections and rework accomplished in accordance with Boeing Service Bulletin 767–54A0094, dated May 22, 1998, are acceptable for compliance with the applicable actions required by paragraph (b) of this AD.

(c) If any damage to the airplane structure is found during the accomplishment of the modification required by paragraph (a) of this AD, and the service bulletin specifies to contact Boeing for appropriate action: Prior to further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, or a Boeing Company Designated Engineering Representative who has been authorized by the FAA to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on October 3, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–25967 Filed 10–6–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–184–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 757–200 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Boeing Model 757–200 series airplanes, that currently requires inspections to detect cracking on the free edge of the tang, if necessary, and of the fastener holes in the lower spar chord; and various follow-on actions. That AD also provides for an optional terminating action for the repetitive inspections. This action would add inspections to detect additional cracking of the fastener holes in the lower spar chord. This action also adds an optional terminating modification. This proposal is prompted by the issuance of new service information. The actions specified by the proposed AD are intended to detect and correct fatigue cracking in the lower spar chord, which could result in reduced structural integrity of the engine strut.

DATES: Comments must be received by November 24, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–184–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9–anm–nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–184–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington

98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Dennis Stremick, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2776; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.,* reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000-NM–184-AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–184–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On March 5, 1997, the FAA issued AD 97–06–04, amendment 39–9961 (62 FR 11760, March 13, 1997), applicable to certain Boeing Model 757–200 series airplanes, to require inspections to detect cracking on the free edge of the tang, if necessary, and of the fastener holes in the lower spar chord; and various follow-on actions. That AD also provides for optional terminating action for the repetitive inspections. That action was prompted by a report of fatigue cracking in the lower spar chord of two Model 757 series airplanes. The requirements of that AD are intended to detect and correct such fatigue cracking, which could result in reduced structural integrity of the engine strut.

Related Rulemaking

This proposed AD is related to AD 99–24–07, amendment 39–11431 (64 FR 66370, November 26, 1999), applicable to certain Boeing Model 757 series airplanes equipped with Rolls Royce RB211 engines, that requires modification of the nacelle strut and wing structure. In the preamble to AD 97–06–04, the FAA specified that the actions required by that AD were considered ''interim action'' and that the manufacturer was developing a modification to positively address the unsafe condition. The FAA indicated that it may consider further rulemaking action once the modification was developed, approved, and available. The manufacturer now has developed such a modification, and the FAA issued AD 99–24–07 to require accomplishment of that modification.

Actions Since Issuance of Previous Rule

Since the issuance of AD 97–06–04, the FAA has reviewed and approved Boeing Service Bulletin 757–54–0031, Revision 4, dated November 11, 1999, which describes procedures for additional bolt hole inspections to detect further cracking of the fastener holes that promulgated in a different direction in the lower spar chord than the area described in that AD. This inspection was added due to a report of a crack in the lower spar chord on a Model 757 series airplane with fewer flight cycles than the number of flight cycles stated in the threshold table of Boeing Service Bulletin 757–54–0031, Revision 2, dated December 19, 1996. Revision 2 was referenced as the appropriate source of service information for accomplishment of the actions required by AD 97–06–04, but did not include the lower spar chord area specified in Revision 4.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 97–06–04 to continue to require inspections to detect cracking on the free edge of the tang, if necessary, and of the fastener holes in the lower spar chord; and various follow-on actions. This proposed AD also would continue to provide an optional terminating action for the repetitive inspections. This new action would add inspections to detect additional cracking of the fastener holes in the lower spar chord. This action also adds an optional terminating modification. The actions would be required to be accomplished in accordance with the service bulletin described previously, except as discussed below.

Difference Between Service Bulletin and This AD

Operators should note that, although the service bulletin referenced in this AD recommends accomplishment of the second eddy current inspection within 6,000 flight cycles after accomplishment of the first inspection, this AD adds a ''grace period'' of 60 days due to the length of time that has passed since the issuance of that AD. The FAA has been advised that a significant number of the affected Model 757 series airplanes have already accomplished the first inspection. In developing an appropriate compliance time for this action, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but the manufacturer's recommendation as to an appropriate compliance time, parts availability, and the practical aspect of accomplishing the required inspection within an interval of time that parallels the normal scheduled maintenance for the majority of affected operators.

In light of this, the FAA has determined that, for operators that have already accomplished the first inspection, a ''grace period'' of 60 days is necessary to ensure that the affected airplanes are inspected in a timely manner and that an acceptable level of safety is maintained.

Cost Impact

There are approximately 418 Model 757–200 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 151 airplanes of U.S. registry would be affected by this proposed AD.

The inspections that are currently required by AD 97–06–04 take

approximately 52 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $471,120, or $3,120 per airplane.

The new inspections that are proposed in this AD action would take approximately 4 work hours per inspection, per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed requirements of this AD on U.S. operators is estimated to be $36,240, or $240 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9961 (62 FR 11760, March 13, 1997), and by adding a new airworthiness directive (AD), to read as follows:

Boeing: Docket 2000-NM–184-AD. Supersedes AD 97–06–04, Amendment 39–9961.

Applicability: Model 757–200 series airplanes having line numbers 1 through 736 inclusive, powered by Rolls Royce engines, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (n) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking of the lower spar chord, which could result in reduced structural integrity of the engine strut, accomplish the following:

Restatement of Requirements of AD 97–06–04

Repetitive Inspections

(a) Prior to the accumulation of 15,000 total flight cycles, or within 60 days after March 28, 1997 (the effective date of AD 97–06–04, amendment 39–9961), whichever occurs later: Perform an eddy current inspection to detect cracking on the free edge of the tang, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 757–54–0031, Revision 2, dated December 19, 1996, or Revision 4, dated November 11, 1999. Repeat this inspection thereafter at intervals not to exceed 3,000 flight cycles until the inspection required by paragraph (d) of this AD is accomplished.

Note 2: The inspection required by paragraph (a) of this AD need not be performed on airplanes on which the inspection required by paragraph (d) of this AD is performed prior to the compliance time specified in paragraph (a) of this AD.

Follow-On Actions

(b) If any cracking is found during the inspection required by paragraph (a) of this AD, and the cracking is within the limits specified in Boeing Service Bulletin 757–54–0031, Revision 2, dated December 19, 1996, or Revision 4, dated November 11, 1999: Prior to further flight, remove the midchord channels, stop-drill the cracking, and install a repair in accordance with the service bulletin. No further action is required by paragraph (a) of this AD.

(c) If any cracking is found, and the cracking is outside the limits specified in Boeing Service Bulletin 757–54–0031, Revision 2, dated December 19, 1996, or Revision 4, dated November 11, 1999: Prior to further flight, replace the lower spar chord with a new or serviceable chord in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA.

Bolt Hole Inspection

(d) Perform an eddy current inspection (bolt hole inspection) to detect cracking of the two fastener holes in the lower spar chord, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 757–54–0031, Revision 2, dated December 19, 1996, or Revision 4, dated November 11, 1999, at the time specified in paragraph (d)(1) and (d)(2) of this AD, as applicable. Accomplishment of this inspection terminates the inspections required by paragraph (a) of this AD.

(1) For airplanes on which the stiffening straps have been removed from the midchord in accordance with Boeing Service Bulletin 757–54–0028 prior to the effective date of this AD: Accomplish the inspection at the time specified in Paragraph 1.D. (''Description'') of Boeing Service Bulletin 757–54–0031, Revision 2, dated December 19, 1996, or Revision 4, dated November 11, 1999.

(2) For airplanes other than those identified in paragraph (d)(1) of this AD: Accomplish the inspection prior to the accumulation of 18,000 total flight cycles, or within 60 days after March 28, 1997, whichever occurs later.

(e) Accomplish either paragraph (e)(1) or (e)(2) of this AD, as applicable, in accordance with Boeing Service Bulletin 757–54–0031, Revision 2, dated December 19, 1996, or Revision 4, dated November 11, 1999.

(1) If any fastener installed as a result of an inspection required by paragraph (d) of this AD has a diameter of 5/8-inch or greater: Install the repair prior to the accumulation of the number of flight cycles specified in the ''Subsequent Inspection Interval'' column of the Threshold Table included in Paragraph 1.E. (''Compliance'') of Boeing Service Bulletin 757–54–0031, Revision 2, dated December 19, 1996, or Revision 4, dated November 11, 1999.

(2) If any fastener installed as a result of an inspection required by paragraph (d) of this AD has a diameter of less than 5/8-inch: Repeat the bolt hole inspection required by

paragraph (d) of this AD prior to the accumulation of the number of flight cycles specified in the ''Subsequent Inspection Interval'' column of the Threshold Table included in Paragraph 1.E. (''Compliance'') of the service bulletin until the repair specified in paragraph (h) of this AD is installed.

Optional Terminating Action

(f) Installation of the repair in accordance with the Accomplishment Instructions of Boeing Service Bulletin 757–54–0031, Revision 2, dated December 19, 1996, or Revision 4, dated November 11, 1999, constitutes terminating action for the requirements in paragraphs (a) and (d) of this AD.

New Requirements of This AD

Revised Service Information

(g) Except as provided by paragraphs (c) and (l)(3) of this AD: As of the effective date of this new AD, Boeing Service Bulletin 757–54–0031, Revision 4, dated November 11, 1999, must be used for accomplishment of the actions required by this AD.

Second Bolt Hole Inspection

(h) Within 6,000 flight cycles after accomplishment of paragraph (d) of this AD, or within 60 days after the effective date of this AD, whichever occurs later: Perform a second eddy current inspection (bolt hole inspection) to detect cracking of the two fastener holes in the lower spar chord, in accordance with Part IV of the Accomplishment Instructions of Boeing Service Bulletin 757–54–0031, Revision 4, dated November 11, 1999. If no cracking is found during the inspection required by this paragraph, no further action is required by this paragraph.

Third Bolt Hole Inspection

(i) After accomplishment of the inspection required by paragraph (h) of this AD, when the airplane has reached the flight cycle threshold as defined by the flight cycle threshold formula on page 9, Paragraph 1.E. (''Compliance'') of Boeing Service Bulletin 757–54–0031, Revision 4, dated November 11, 1999: Perform a third eddy current inspection (bolt hole inspection) to detect cracking of the two fastener holes in the lower spar chord, in accordance with Part II of the Accomplishment Instructions of the service bulletin.

Fourth Bolt Hole Inspection

(j) If, after accomplishment of the inspection required by paragraph (i) of this AD, paragraph (m) of this AD has not yet been accomplished: When the airplane has reached the flight cycle threshold as defined by the flight cycle threshold formula on page 9, Paragraph 1.E. (''Compliance'') of Boeing Service Bulletin 757–54–0031, Revision 4, dated November 11, 1999; perform a fourth eddy current inspection (bolt hole inspection) to detect cracking of the two fastener holes in the lower spar chord, in accordance with Part II of the Accomplishment Instructions of the service bulletin.

Follow-On Actions

(k) If no cracking is found during any inspection required by paragraph (d), (i), or (j) of this AD, prior to further flight, increase the diameter of the holes by the dimensions specified in the Accomplishment Instructions of Boeing Service Bulletin 757–54–0031, Revision 2, dated December 19, 1996, or Revision 4, dated November 11, 1999, and install new fasteners in accordance with the service bulletin.

(l) If any cracking is found during any inspection required by paragraph (d), (h), (i), or (j) of this AD, prior to further flight, accomplish paragraph (l)(1), (l)(2), or (l)(3) of this AD, as applicable, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 757–54–0031, Revision 2, dated December 19, 1996, or Revision 4, dated November 11, 1999.

(1) If the cracking can be removed by increasing the diameter of the hole in accordance with the service bulletin: Increase the diameter of the hole by the dimensions specified in the Accomplishment Instructions of the service bulletin, and install new fasteners in accordance with the service bulletin.

(2) If the cracking cannot be removed by increasing the diameter of the hole in accordance with the Accomplishment Instructions of the service bulletin, but the cracking is within the limits specified in the service bulletin: Install the repair in accordance with the service bulletin. No further action is required by paragraph (d) of this AD.

(3) If the cracking is outside the limits specified in the service bulletin: Replace the lower spar chord with a new or serviceable chord in accordance with a method approved by the Manager, Seattle ACO.

Optional Terminating Modification

(m) Accomplishment of the modification of the nacelle strut and wing structure as required by AD 99–24–07, amendment 39–11431, constitutes terminating action for the requirements of this AD.

Alternative Methods of Compliance

(n) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(o) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on October 3, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–25969 Filed 10–6–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 51

[Public Notice 3428]

Passport Procedures—Amendment to Requirements for Executing a Passport Application on Behalf of a Minor

AGENCY: Bureau of Consular Affairs, State.

ACTION: Proposed rule.

SUMMARY: This proposed rule amends regulations on Passports. The amendments bring passport regulations into conformity with current practice and implement the requirements of Section 236 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act. That Section requires that both parents execute a passport application on behalf of a minor under age 14 or, if only one parent executes the application, such parent must establish his or her custodial status or the other parent's consent. It also provides for exceptions in exigent circumstances, such as those involving the health or welfare of the child, or when the Secretary of State determines that issuance of a passport is warranted by special family circumstances.

DATES: Written comments must be received no later than November 6, 2000.

ADDRESSES: Written comments should be addressed to: John Hotchner, Office of Passport Policy, Planning and Advisory Services, 2401 E. Street, N.W., Room 917, Washington, D.C. 20522–0907.

FOR FURTHER INFORMATION CONTACT: John Hotchner, Office of Passport Policy and Advisory Services, Bureau of Consular Affairs, Department of State, (202) 663–2427.

SUPPLEMENTARY INFORMATION: As a measure to prevent the use of the United States passport in international child abduction, Congress enacted Section 236 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Pub.L. 106–113. The

Section affects the passport application process for minors under the age of 14 by requiring that both parents execute the passport application on behalf of the minor; if only one parent executes the application, that parent must establish sole authority to execute the application or the other parent's consent to the application. This law will directly affect the passport applications of about one million families each year. Although Section 236 places an additional burden on the parents of minor children under the age of 14, the statute clearly reflects a judgment that its value in reducing child abduction will be seen to outweigh the burden of establishing both parents' consent to passport applications for children.

Present Passport Regulations To Assist in the Prevention of International Parental Child Abduction

International parental child abduction is an ever more frequent phenomenon, reflecting in part the increasing number of international marriages and the ease with which persons can travel across international boundaries. In recent years, the Department of State, the Department of Justice, and the Congress of the United States have given cases of international parental child abduction greater attention and have sought new and more effective mechanisms for dealing with them. At present, both criminal and civil remedies can be invoked to deal with parental abductions after they occur. Such cases remain extremely difficult to resolve, however, and it is clear that preventing an abduction in the first instance is preferable.

Under the Department's existing regulation, 22 CFR 51.27, a parent may request that his or her minor child's name be placed in the Department's passport namecheck clearance system so that, if an application is received for the child, the objecting parent will be notified before issuance. The passport may be denied if the Department has on file an order from a court of competent jurisdiction granting the objecting parent sole or joint custody or prohibiting the child's travel outside the court's jurisdiction without the express permission of the court or of the other parent. The Department recommends that parents who have a specific concern about international child abduction make use of the existing program in addition to relying on Section 236. The public should note that the provisions of the existing regulation extend to all minor children under age 18. This program for children under age 18 will remain in place when the new regulations relating to children under 14 go into effect.

The Department recognizes that denying passport issuance may not prevent an abduction. Many U.S. citizen children acquire a second nationality at birth through a non-U.S. citizen parent or by birth outside the United States to a U.S. citizen parent. The inability to obtain a U.S. passport, therefore, does not prevent a child from obtaining and traveling on a foreign passport. Even an exit-control system, which the United States does not have, could not fully prevent all cases of dual-national children being wrongfully removed from the United States by an abducting parent. Nevertheless, limiting access to passports for minors may have some preventative effect. Consistent with this possibility, the Congress decided that the Department's long-standing passport-denial-to-minors program should be supplemented by a requirement that both parents sign a passport application for a minor child under age 14 except in situations specified by statute or regulation. This regulation implements the new statutory requirement in a way that the Department believes meets the requirements of the statute and appropriately provides for exceptions.

Notice or Denial of a Passport at the Request of a Parent

The proposed regulation amends subsection 51.27(d)(l)(i) to extend it to instances when court-ordered limitations on a child's travel are brought to the Department's attention in the course of a passport application rather than by an objecting parent. This change, for example, will preclude a parent with sole custody, ordinarily entitled to apply for a child's passport under the Act, from obtaining a passport if the custody order contains a limitation on the minor's ability to travel.

General Requirement for Both Parents To Consent to a Passport for a Minor Child

Under current passport regulations, either parent or the legal guardian, regardless of citizenship, may execute a passport application on behalf of a minor under 13 years of age; minors 13 years of age and over are expected to execute their own passport applications. To implement the statutory requirement that both parents must execute the passport application on behalf of a child under the age of 14, the proposed rule raises the age at which a minor should execute his or her own application to 14. The proposed rule adds the requirement that both parents execute a passport application on behalf of a minor under the age of 14.

When only one parent is available to execute the application, that parent must provide, under penalty of perjury, documentary evidence demonstrating that he or she has sole legal custody of the child or has the written consent of the other parent to the issuance of the passport. Documents supporting sole custody or the authority to obtain a passport include, but are not limited to: a birth certificate or other official birth registration which names only the applying parent; an adoption decree naming only the adopting parent; a court order granting sole custody to the applying parent if the order does not limit the minor's ability to travel; a court order specifically authorizing passport issuance, regardless of custodial arrangements; a declaration of incompetence of the non-applying parent by a court of competent jurisdiction; the non-applying parent's death certificate.

A written statement of a parent not executing the passport application giving consent to the issuance of the passport will also be accepted at the discretion of the adjudicating officer who will take into account the totality of the circumstances in deciding whether to issue the passport.

Individuals Applying In Loco Parentis

The Department has long recognized that there are instances when it is impossible for a parent to execute a passport application on behalf of a minor. Many children are in the physical custody of relatives or foster parents, as well as adoption agencies or child welfare agencies. In accepting applications executed on behalf of minors by individuals in loco parentis, it has been the Department's policy to require that those individuals provide a notarized statement or affidavit from a parent authorizing the applying person to execute the application.

The new regulation will require that the individual executing the passport application on behalf of a minor under age 14 in loco parentis present a notarized statement from both parents or from the parent exercising parental authority. In instances when only one parent grants in loco parentis, the same documentary evidence required when only one parent executes a passport application on behalf of a minor under age 14 to demonstrate that person's sole authority should accompany the application.

Exceptions to the Two Parent Signature Requirement

The statute provides for two exceptions to the general requirement: (1) exigent circumstances involving the health and welfare of the child; or, (2) when the Secretary of State determines that issuance of a passport is warranted by special family circumstances.

Exigent circumstances are defined as time-sensitive circumstances when the inability of the minor to obtain a passport would jeopardize the health or welfare of the minor. The requirement of establishing the second parent's consent to issuance of the passport or formal documentation of the reason for the absence of the second parent may be waived in such circumstances.

Examples of exigent circumstances include, but are not limited to: instances when the minor must travel to receive emergency medical treatment; when a minor's passport is lost or stolen while traveling accompanied by only one parent or traveling unaccompanied with a school, church or other group; when the minor needs to travel because of the serious illness of a person in the minor's immediate family, or, when failure to issue would prevent the child from returning to the U.S. and there is insufficient time before travel is necessary to obtain the normally required documentation.

Special family circumstances are defined as circumstances when the minor's family situation prevents one or both of the parents from executing the passport application. As with the exigent circumstance exception, the requirement of establishing the second parent's consent or formal documentation of the reason for the absence of the second parent is waived. Examples of special family circumstances include, but are not limited to, instances when the second parent is unable to apply for the passport in person or to provide a statement authorizing the application and issuance of the passport because he or she has abandoned the family or is unavailable due to serious health problems. Individuals claiming a special family circumstance will be required to provide a statement, under penalty of perjury, explaining the special family circumstance.

Decisions to apply this exception will be made by the Deputy Assistant Secretary for Passport Services or a senior passport adjudicator within the United States, or by the Deputy Assistant Secretary for Overseas Citizens Services or a consular officer if abroad.

Special Considerations for Passport Applications Executed Overseas

While the great majority of passports are issued within the United States, a significant number are issued annually to U.S. citizens living and traveling overseas. We anticipate that parents overseas generally will comply fully with the requirements of the law in much the same manner as parents applying within the United States. Nonetheless, in proposing these regulations, the Department has sought to take into account, and provide for, certain differing circumstances that pertain in much greater measure to the issuance of U.S. passports overseas. For example, exigent circumstances would include instances when a delay in departure would pose a grave danger for the minor abroad. Civil unrest, natural disaster, war, or invasion may make imperative the urgent travel or evacuation of U.S. citizens, particularly minors, from such regions. In less dramatic fashion, exigent circumstances could encompass a situation when, for example, a child traveling with a school group loses his or her passport and would need a replacement to remain with the group in its ongoing travel. Despite the lack of time to procure documents or statements relating to parental consent, it is essential that a passport be issued quickly in both cases, and as the exigent circumstances exception in subsection (b) permits, to protect the health and welfare of the minor.

Circumstances overseas can differ in another respect. Specifically, the U.S. consular officer may have access to post registration records that relate to family situations. Particularly in smaller countries, an officer may have personal knowledge of a family situation, e.g., that the child is in the care of an individual in loco parentis or the fact that a parent is widowed, which would be relevant in a situation when documentary evidence was not available or could not be obtained in a timely fashion. Accordingly, the proposed rule will give the Department flexibility to utilize such information in this and other instances, consistent with the consular officer's exercise of good judgment, as allowed by the statute's reference to special family circumstances.

Provisions To Harmonize Other Parts of the Regulations With the Two-Parent Requirement

Section 51.1 is amended to provide a definition of ''passport application''. Section 51.21 is amended to incorporate the two-parent signature requirement to passport renewals by minors under the age of 14 and to provide for compliance with the two-parent signature requirement in mail-in applications abroad. Section 51.27 is amended to raise the age after which a minor should execute his or her own passport application from 13 to 14. Sections 51.40 and 51.41 are amended to bring them into conformity with current passport practice regarding individuals included in the passport and to comply with the requirements of the Act. Since 1981, U.S. passports have been issued to document only the bearer: they do not include any other person. The regulation is amended to reflect that change. Section 51.41 is also amended to require applicants under the age of 14, whether applying for their first passport or for a renewal, to present evidence of parentage in addition to evidence of nationality. This will assist in the adjudication not only of the citizenship of the minor under age 14, but in the determination of the parent(s) entitled to obtain a passport on the minor's behalf. The document should include the name, date and place of birth of the child and the name(s) of the parent(s).

Regulatory Flexibility Act; Paperwork Reduction Act; Federalism Assessment; E.O. 12988

These proposed changes to the regulations are not expected to have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, 5 U.S.C. 605(b). They impose certain information collection requirements under the provisions of the Paperwork Reduction Act, 44 U.S.C. Chapter 35. These rules have no federalism implications warranting the preparation of a Federalism Assessment in accordance with E.O. 12988. These rules are exempt from review under E.O. 12988 but have been reviewed and found consistent with its objectives.

List of Subjects in 22 CFR Part 51

Administrative practice and procedure, Passports and visas, Reporting and recordkeeping requirements.

Accordingly, for the reasons set forth in the preamble, 22 CFR Part 51 is amended as follows:

PART 51—PASSPORTS

1. The authority citation for part 51 is revised to read as follows:

Authority: 22 U.S.C. 211a; 22 U.S.C. 2651a, 2671(d)(3), 2714 and 3926; 31 U.S.C. 9701; E.O. 11295, 3 CFR, 1966–1970 Comp., p 570;

sec. 236, Pub. L.106–113, 113 Stat. 1937–422; 18 U.S.C 1621(a)(2).

In § 51.1, redesignate paragraphs (g) and (h) as paragraphs (h) and (i), respectively, and add a new paragraph (g) to read as follows:

* * * * *

§ 51.1 Definitions.

* * * * *

(g) Passport Application means the passport application form for a United States passport, filled in, subscribed and executed as prescribed by the Secretary pursuant to 22 U.S.C. 213, and all documents, photos and statements submitted with the form or thereafter in support of the application. The information provided in the passport application and supporting submissions, whether provided contemporaneously with the application form or at any time thereafter, is subject to the penalties of perjury under all applicable criminal statutes.

* * * * *

3. Revise § 51.21(d)(4)(ii) to read as follows:

§ 51.21 Execution of passport application.

* * * * *

(d) * * *

(4) * * *

(ii) Mail applications abroad on behalf of minors under the age of 14 comply must with the requirements of § 51.27.

* * * * *

4. In § 51.27, revise paragraph (b) and paragraph (d)(1)(i) introductory text to read as follows:

§ 51.27 Minors.

* * * * *

(b) *Execution of the application for minors.*

(1) *Minors 14 years of age and above.* A minor aged 14 and above is required to execute an application on his or her own behalf unless in the judgment of the person before whom the application is executed it is not desirable for the minor to execute his or her own application. In such a case, it must be executed on behalf of the minor aged 14 and above by a parent or guardian of the minor or by a person in loco parentis.

(2) *Minors under the age of 14.*

(i) Both parents or each of the child's legal guardians, if any, must execute the application on behalf of a minor under age 14, under penalty of perjury, and provide documentary evidence demonstrating that they are the parents or guardian, except as specifically provided in this section.

(ii) A passport application may be executed on behalf of the minor under age 14 by just one parent or legal guardian if such person provides, under penalty of perjury—

(A) Documentary evidence that such person has sole custody of the child; or

(B) A written statement of consent from the non-applying parent or guardian, if applicable, to the issuance of the passport.

(iii) An individual may apply *in loco parentis* on behalf of a minor under age 14 by submitting a notarized written statement or an affidavit from both parents specifically authorizing the application. If only one parent provides the written statement or affidavit, documentary evidence that such parent has sole custody of the child must be presented.

(iv) Documentary evidence in support of an application executed on behalf of a minor under age 14 by one parent or person *in loco parentis* under paragraphs (b)(2)(ii) and (iii) of this section may include, but is not limited to, the following:

(A) A birth certificate providing the minor's name, date and place of birth and the name of the sole parent;

(B) A Consular Report of Birth Abroad of a Citizen of the United

States of America (FS–240) or a Certification of Report of Birth of a United States Citizen (DS–1350) providing the minor's name, date and place of birth and the name of the sole parent;

(C) An adoption decree showing only one adopting parent;

(D) An order of a court of competent jurisdiction granting sole custody to the applying parent or legal guardian and containing no travel restrictions inconsistent with issuance of the passport;

(E) A judicial declaration of incompetence of the non-applying parent;

(F) An order of a court of competent jurisdiction specifically permitting the applying parent's or guardian's travel with the child; or

(G) A death certificate for the non-applying parent,

(v) In instances when a parent submits a custody decree invoking the provisions of paragraph (d)(1) of this section, the judicial limitations on the minor's ability to travel contained in the custody decree will be given effect.

(vi) The requirements of paragraphs (b)(2)(i), (ii) and (iii) of this section may be waived in cases of exigent or special family circumstances, as determined by a Department official designated under paragraph (b)(2)(vi)(D) of this section.

(A) Exigent circumstances are defined as time sensitive circumstances when the inability of the minor to obtain a passport would jeopardize the health and safety, or welfare of the minor or would result in the child being separated from the traveling unit.

(B) Special family circumstances are circumstances when the minor's family situation makes it impossible for one or both of the parents to execute the passport application.

(C) Any person applying for a passport for a child under age 14 under this paragraph must submit with the application a written statement subscribed under penalty of perjury describing the exigent or special family circumstances to be taken into consideration in applying an exception.

(D) Determinations under this paragraph may be made by a senior passport adjudicator or the Deputy Assistant Secretary for Passport Services for an application filed within the United States. A consular officer or the Deputy Assistant Secretary for Overseas Citizens Services may make the determination for applications filed abroad.

(vii) Nothing contained in this section shall prohibit any Department official adjudicating a passport application on behalf of a minor from requiring an applicant to submit other documentary evidence deemed necessary to establish the applying adult's entitlement to obtain a passport on behalf of a minor under the age of 14 in accordance with the provisions of this section.

* * * * *

(d) * * *

(1)(i) When there is a dispute concerning the custody of a minor under age 18, a passport may be denied if the Department has on file, or is provided in the course of a passport application executed on behalf of a minor, a copy of a court order granted by a court of competent jurisdiction in the United States or abroad which:

* * * * *

5. Revise § 51.40 to read as follows:

§ 51.40 Burden of proof.

The applicant has the burden of proving that he or she is a national of the United States.

6. Revise § 51.41 to read as follows:

§ 51.41 Documentary evidence.

(a) Every application shall be accompanied by evidence of the U.S. nationality of the applicant.

(b) Minors under the age of 14, whether applying for a passport for the first time or for a renewal, must provide documentary evidence of U.S. nationality showing the minor's name, date and place of birth, and the names of the parent or parents.

Dated: September 27, 2000.

George C. Lannon,

Acting Assistant Secretary for Consular Affairs, U.S. Department of State.

[FR Doc. 00–25782 Filed 10–6–00; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–105235–99]

RIN 1545–AX28

Exclusion of Gain From Sale or Exchange of a Principal Residence

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations relating to the exclusion of gain from the sale or exchange of a taxpayer's principal residence. These proposed regulations reflect changes to the law made by the Taxpayer Relief Act of 1997, as amended by the Internal Revenue Service Restructuring and Reform Act of 1998. These proposed regulations generally affect taxpayers who sell or exchange their principal residences.

DATES: Written or electronically generated comments must be received by January 8, 2001. Requests to speak (with outlines of oral comments) to be discussed at the public hearing scheduled for January 23, 2001 at 10 a.m., must be submitted by January 3, 2001.

ADDRESSES: Send submissions to: CC:M&SP:RU (REG–105235–99), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:M&SP:RU (REG–105235–99), Courier's Desk, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the ''Tax Regs'' option on the IRS Home Page, or by submitting comments directly to the IRS internet site at http://www.irs.gov/tax_regs/regslist.html. The public hearing will be held in the IRS Auditorium, Seventh Floor, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Sara P. Shepherd, (202) 622–4910; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, contact Treena Garrett, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

1. Section 121 Exclusion

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) under section 121 of the Internal Revenue Code relating to the exclusion of gain from the sale or exchange of a taxpayer's principal residence. These proposed regulations reflect changes to the law made by the Taxpayer Relief Act of 1997, Public Law 105–34 (111 Stat. 788 (TRA 1997)), as amended by the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105–206 (112 Stat. 805 (RRA 1998)).

Prior to the repeal by TRA 1997, section 1034 provided that gain from the sale or exchange of a principal residence (old residence) was recognized only to the extent that the taxpayer's adjusted sales price of the old residence exceeded the taxpayer's cost of purchasing a new residence within the replacement period (generally 2 years before or after the date of sale).

Prior to amendment by TRA 1997, former section 121 provided that a taxpayer could make a one-time election to exclude up to $125,000 of gain from the sale or exchange of property. To qualify for the exclusion, the taxpayer must have: (1) Been age 55 or older on the date of the sale or exchange; and (2) owned and used the property as the taxpayer's principal residence for at least 3 years during the 5-year period ending on the date of the sale or exchange.

TRA 1997 amended section 121 and repealed section 1034 for sales and exchanges of principal residences after May 6, 1997 (except, at the election of the taxpayer, to a sale or exchange: (1) Made on or before August 5, 1997; (2) made pursuant to a binding contract in effect on August 5, 1997; or (3) that would qualify under section 1034 by reason of a new residence acquired on or before August 5, 1997 or pursuant to a binding contract in effect on August 5, 1997). Under section 121 as amended, a taxpayer generally excludes up to $250,000 ($500,000 for certain joint returns) of gain realized on the sale or exchange of property if the property was owned and used as the taxpayer's principal residence for at least 2 years during the 5-year period ending on the date of the sale or exchange. The exclusion applies regardless of the age of the taxpayer, and the full exclusion can be used only once every 2 years. A taxpayer who fails to meet these requirements by reason of a change in place of employment, health, or, to the extent provided in regulations, unforeseen circumstances may be entitled to a reduced exclusion.

RRA 1998 amended TRA 1997 to clarify that the reduced exclusion amount under section 121(c) is a portion of the maximum limitation amount ($250,000 or $500,000 for certain joint returns), not a portion of the realized gain. See H.R. Rep. No. 356, 105th Cong., 1st Sess. 17 (1997); S. Rep. No. 174, 105th Cong., 2d Sess. 150 (1998). In addition, the amendments provided that for married taxpayers filing jointly but failing to meet the ownership, use, or timing requirements of section 121(b)(2)(A), the maximum limitation amount will be the sum of each spouse's limitation amount determined on a separate basis as if they had not been married. S. Rep. No. 174, 105th Cong., 2d Sess. 151 (1998); H.R. Conf. Rep. No. 599, 105th Cong., 2d Sess. 337 (1998). Lastly, the amendments clarified that a taxpayer may elect to apply prior law under section 1034 or former section 121 to a sale or exchange occurring on as well as before the date of enactment, August 5, 1997. H.R. Rep. No. 356, 105th Cong., 1st Sess. 18 (1997); S. Rep. No. 174, 105th Cong., 2d Sess. 151 (1998).

2. Section 121 Exclusion in Individuals' Title 11 Cases

This document also contains proposed amendments to the Income Taxation Regulations (26 CFR part 1) under section 1398 of the Internal Revenue Code. Under the authority provided in section 1398(g)(8), the regulations add the section 121 exclusion to the list of tax attributes of the debtor that the bankruptcy estate of an individual in a chapter 7 or 11 bankruptcy case under title 11 of the United States Code succeeds to and takes into account in computing the taxable income of the estate. Although these regulations are proposed to be applicable on or after the date they are published as final regulations in the **Federal Register,** in view of the IRS's acquiescence in the case of *Internal Revenue Service* v. *Waldschmidt (In re Bradley),* AOD CC–1999–009 (August 30, 1999), and Chief Counsel Notice (35)000–162 (August 10, 1999), the IRS will not challenge the position taken prior to the effective date of these regulations that a bankruptcy estate may use the section 121 exclusion if the

debtor would otherwise satisfy the section 121 requirements.

Explanation of Provisions

1. Section 121 Exclusion

Section 1.121–1(b) of the proposed regulations addresses the definition of principal residence. This section provides that whether or not property is the taxpayer's principal residence, and whether or not property is used by the taxpayer as the taxpayer's principal residence (in the case of a taxpayer using more than one property as a residence), depends upon all the facts and circumstances. If a taxpayer alternates between two properties, using each as a residence for successive periods of time, the property that the taxpayer uses a majority of the time during the year will ordinarily be considered the taxpayer's principal residence.

Section 1.121–1(c) of the proposed regulations addresses the use requirement under section 121(a). This section provides that, in order for a taxpayer to satisfy the use requirement under section 121(a), the taxpayer must occupy the residence (except for short temporary absences) for at least 2 years during the 5-year period ending on the date of the sale or exchange. See H.R. Rep. No. 148, 105th Cong., 1st Sess. at 348 (1997); S. Rep. No. 33, 105th Cong., 1st Sess. at 37 (1997); H.R. Conf. Rep. No. 220, 105th Cong., 1st Sess. at 386 (1997).

Section 1.121–1(d) provides that the section 121 exclusion does not apply to so much of the gain from the sale or exchange of property as does not exceed the portion of the depreciation adjustments (as defined in section 1250(b)(3)) attributable to periods after May 6, 1997, in respect of the property.

Section 1.121–1(e) of the proposed regulations provides that if a taxpayer satisfies the use requirement only with respect to a portion of the property sold or exchanged, section 121 will apply only to the gain from the sale or exchange allocable to that portion. Thus, if the residence was used partially for residential purposes and partially for business purposes, only that part of the gain allocable to the residential portion is excludable under section 121. Furthermore, the section 121 exclusion does not apply to the extent that depreciation attributable to periods after May 6, 1997, exceeds gain allocable to the business-use portion of the property.

Under section 121(c), a reduced exclusion is available for a taxpayer who sells or exchanges property used as the taxpayer's principal residence but fails to satisfy the ownership and use requirements described in section 121(a) or the 2-year limitation described in section 121(b)(3). Section 1.121–3(a)(1) of the proposed regulations provides that the reduced exclusion applies only if the sale or exchange is necessitated by a change in place of employment, health, or, to the extent provided in forms, instructions, or other appropriate guidance including regulations and letter rulings, unforeseen circumstances. The IRS and the Treasury Department request written comments regarding what should qualify as an unforeseen circumstance for purposes of determining whether a taxpayer is eligible to claim the reduced exclusion available under section 121(c).

Under section 121(d)(8), a taxpayer must make an election to have the section 121 exclusion apply to a sale or exchange of a remainder interest in the taxpayer's principal residence. Section 1.121–4(f)(3) provides that the taxpayer makes the election by filing a return for the taxable year of the sale or exchange that does not include the gain from the sale or exchange of the remainder interest in the taxpayer's gross income.

Under section 121(f), a taxpayer must make an election to have the section 121 exclusion not apply to a sale or exchange of the taxpayer's principal residence. Section 1.121–4(h) provides that the taxpayer makes the election by filing a return for the taxable year of the sale or exchange that includes the gain from the sale or exchange of the residence in the taxpayer's gross income.

2. Section 121 Exclusion in Individuals' Title 11 Cases

Section 1.1398–3 of the proposed regulations provides that the bankruptcy estate of an individual in a chapter 7 or 11 bankruptcy case under title 11 of the United States Code succeeds to and takes into account the debtor's section 121 exclusion if the taxpayer satisfies the requirements of section 121.

3. Proposed Effective Date

These regulations are proposed to be applicable for sales or exchanges that occur on or after the date they are published as final regulations in the **Federal Register.**

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any electronic or written comments (a signed original and eight (8) copies of written comments) that are submitted timely (in the manner described in the **ADDRESSES** caption) to the IRS. The IRS and Treasury request comments on the clarity of the proposed rules and how they may be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for January 23, 2001, beginning at 10 a.m. in the IRS Auditorium, Seventh Floor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the 10th Street entrance, located between Constitution and Pennsylvania Avenues, NW. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 15 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of the preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written comments and an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by January 3, 2001. A period of 10 minutes will be allotted to each person making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is Sara P. Shepherd, Office of Assistant Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and the Treasury

Department participated in the development of the regulations.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805. * * * Section 1.1398–3 also issued under 26 U.S.C. 1398(g).

Par. 2. Sections 1.121–1, 1.121–2, 1.121–3 and 1.121–4 are revised to read as follows:

§ 1.121–1 Exclusion of gain from sale or exchange of a principal residence.

(a) *In general.* Section 121 provides that, under certain circumstances, gross income does not include gain realized on the sale or exchange of property that was owned and used by a taxpayer as the taxpayer's principal residence. Subject to the other provisions of section 121, a taxpayer will exclude gain only if, during the 5-year period ending on the date of the sale or exchange, the taxpayer owned and used the property as the taxpayer's principal residence for periods aggregating 2 years or more.

(b) *Principal residence.* Whether or not property is used by the taxpayer as the taxpayer's residence, and whether or not property is used by the taxpayer as the taxpayer's principal residence (in the case of a taxpayer using more than one property as a residence), depends upon all the facts and circumstances. If a taxpayer alternates between two properties, using each as a residence for successive periods of time, the property that the taxpayer uses a majority of the time during the year will ordinarily be considered the taxpayer's principal residence. A property used by the taxpayer as the taxpayer's principal residence may include a houseboat, a house trailer, or stock held by a tenant-stockholder in a cooperative housing corporation (as those terms are defined in section 216(b)(1) and (2)), if the dwelling that the taxpayer is entitled to occupy as a stockholder is used by the taxpayer as the taxpayer's principal residence. Property used by the taxpayer as the taxpayer's principal residence does not include personal property, that is not a fixture under local law.

(c) *Ownership and use requirements.* The requirements of ownership and use for periods aggregating 2 years or more may be satisfied by establishing ownership and use for 24 full months or for 730 days (365×2). The requirements of ownership and use may be satisfied during nonconcurrent periods if both the ownership and use tests are met during the 5-year period ending on the date of the sale or exchange. In establishing whether a taxpayer has satisfied the 2-year use requirement, occupancy of the residence is required. However, short temporary absences, such as for vacation or other seasonal absence (although accompanied with rental of the residence), are counted as periods of use.

(d) *Depreciation taken after May 6, 1997.* The section 121 exclusion does not apply to so much of the gain from the sale or exchange of property as does not exceed the portion of the depreciation adjustments (as defined in section 1250(b)(3)) attributable to periods after May 6, 1997, in respect of the property.

(e) *Property used in part as a principal residence.* If a taxpayer satisfies the use requirement only with respect to a portion of the property sold or exchanged, section 121 will apply only to the gain from the sale or exchange allocable to that portion. Thus, if the residence was used partially for residential purposes and partially for business purposes, only that part of the gain allocable to the residential portion is excludable under section 121. Furthermore, the section 121 exclusion does not apply to the extent that depreciation attributable to periods after May 6, 1997, exceeds gain allocable to the business-use portion of the property. See *Example 8* in paragraph (f) of this section.

(f) *Examples.* The provisions of paragraphs (a) through (e) of this section are illustrated by the following examples:

Example 1. Taxpayer A has owned and used his house as his principal residence since 1986. On January 1, 1998, A moves to another state. A leases his house from that date until April 18, 2000, when he sells it. A is eligible for the section 121 exclusion because he has owned and used the house as his principal residence for at least 2 years out of the 5 years preceding the sale.

Example 2. Taxpayer B owned and used a house as her principal residence from 1986 to the end of 1997. On January 1, 1998, B moved to another state and ceases to use the house. B's move was not necessitated by a change in place of employment, health, or unforeseen circumstances. B's son moved into the house in March 1999 and used the residence until it was sold on July 1, 2001. Taxpayer B may not exclude gain from the sale under section 121 because she did not use the property as her principal residence for at least 2 years out of the 5 years preceding the sale.

Example 3. Taxpayer C lived in a townhouse that he rented from 1993 through 1997. On January 1, 1998, he purchased this townhouse. On February 1, 1998, C moved into his daughter's home. On March 1, 2000, while still living in his daughter's home, C sold his townhouse. The section 121 exclusion will apply to gain from the sale because C owned the townhouse for at least 2 years out of the 5 years preceding the sale (from January 1, 1998 until March 1, 2000) and he used the townhouse as his principal residence for at least 2 years during the 5-year period preceding the sale (from March 1, 1995 until February 1, 1998).

Example 4. Taxpayer D, a college professor, purchased and moved into a house on May 1, 1997. He used the house as his principal residence continuously until September 1, 1998, when he went abroad for a 1-year sabbatical leave. On October 1, 1999, 1 month after returning from the leave, D sold the house. Because his leave is not considered to be a short temporary absence for purposes of section 121 (see paragraph (c) of this section), the period of the leave may not be included in determining whether D used the house for periods aggregating 2 years during the 5-year period ending on the date of the sale. Consequently, D is not entitled to exclude gain under section 121 because he did not use the residence for the requisite period.

Example 5. Taxpayer E purchased a house on February 1, 1998, that he used as his principal residence. During 1998 and 1999, E left his residence for a 2-month summer vacation. E sold the house on March 1, 2000. Although, in the 5-year period preceding the date of sale, the total time E used his residence is less than 2 years (21 months), the section 121 exclusion will apply to gain from the sale of the residence because the 2-month vacations are short temporary absences and are counted as periods of use in determining whether E used the residence for the requisite period.

Example 6. On July 1, 1999, Taxpayer F moves into a house that he owns and had rented to tenants since July 1, 1997. F took depreciation deductions totaling $14,000 for the period that he rented the property. After using the residence as his principal residence for 2 full years, F sells the property on August 1, 2001. F's gain realized from the sale is $40,000. F had no capital losses for 2001. Only $26,000 ($40,000 gain realized—$14,000 depreciation deductions) may be excluded under section 121. The $14,000 of gain recognized by F is unrecaptured section 1250 gain within the meaning of section 1(h).

Example 7. Taxpayer G, an attorney, uses a portion of her principal residence as a law office for a period in excess of 3 years out of the 5 years preceding the sale of the property. Because G did not use the law office portion of the property as her residence, the section 121 exclusion does not apply to the gain from the sale that is allocable to the law office portion of the property.

Example 8. Taxpayer H buys a house in 1998. For 5 years, H uses a portion of the property as his principal residence and a

portion of the property for business purposes. H claims depreciation deductions of $20,000 for the business use of the property. H sells the property in 2003, realizing a gain of $50,000. H had no other section 1231 or capital gains or losses for 2003. H determines that $15,000 of the gain is allocable to the business-use portion of the property and that $35,000 of the gain is allocable to the portion of the property used as his residence. H must recognize $15,000 of the gain allocable to the business-use portion of the property. This $15,000 of gain is unrecaptured section 1250 gain within the meaning of section 1(h). In addition, the section 121 exclusion does not apply to the extent that H's post-May 6, 1997 depreciation ($20,000) exceeds the gain allocable to the business-use portion of the property ($15,000). Therefore, H may exclude $30,000 of the gain from the sale of the property. The remaining $5,000 of gain is recognized by H as unrecaptured section 1250 gain within the meaning of section 1(h).

Example 9. Taxpayer J buys a house in 1998. For 5 years, J uses a portion of the property as her principal residence and a portion of the property for business purposes. J claims depreciation deductions of $10,000 for the business use of the property. J sells the property in 2003, realizing a gain of $50,000. J had no other section 1231 or capital gains or losses for 2003. J determines that $15,000 of the gain is allocable to the business-use portion of the property and that $35,000 of the gain is allocable to the portion of the property used as her residence. J must recognize the $15,000 of gain allocable to the business-use portion of the property ($10,000 of which is unrecaptured section 1250 gain within the meaning of section 1(h), and $5,000 of which adjusted net capital gain). J may exclude $35,000 of the gain from the sale of the property.

Example 10. Taxpayer K owns two residences, one in New York and one in Florida. From 1999 through 2003, K lives in the New York residence for 7 months and the Florida residence for 5 months. Thus, K used the New York residence a majority of the time in each year from 1999 through 2003. Therefore, in the absence of facts and circumstances indicating otherwise, the New York residence is K's principal residence, and only the New York residence would be eligible for the 121 exclusion if it were sold at the end of 2003.

Example 11. Taxpayer L owns two residences, one in Virginia and one in Maine. During 1999 and 2000, L lives in the Virginia residence. During 2001 and 2002, L lives in the Maine residence. During 2003, L lives in the Virginia residence. L's principal residence during 1999, 2000, and 2003 is the Virginia residence. L's principal residence during 2001 and 2002 is the Maine residence. Either residence would be eligible for the 121 exclusion if it were sold during 2003.

(g) *Effective date.* This section and §§ 1.121–2 through 1.121–4 are applicable for sales and exchanges that occur on or after the date these regulations are published as final regulations in the **Federal Register**.

§ 1.121–2 Limitations.

(a) *Dollar limitations.* A taxpayer may exclude from gross income up to $250,000 of gain from the sale or exchange of the taxpayer's principal residence. If taxpayers jointly own a principal residence but file separate returns, each taxpayer will exclude from gross income up to $250,000 of gain that is attributable to each taxpayer's interest in the property, if the requirements of section 121 have otherwise been met.

(b) *Special rules for joint returns*—(1) *In general.* A husband and wife who make a joint return for the year of the sale or exchange may exclude up to $500,000 of gain if—

(i) Either spouse meets the 2-year ownership requirements of § 1.121–1(a);

(ii) Both spouses meet the 2-year use requirements of § 1.121–1(a); and

(iii) Neither spouse excluded gain from a prior sale or exchange of property under section 121 within the last 2 years (as determined under paragraph (c) of this section).

(2) *Other joint returns.* For taxpayers filing jointly, if the spouses fail to meet the requirements of paragraph (b)(1) of this section, the maximum limitation amount to be claimed by the couple will be the sum of each spouse's limitation amount determined on a separate basis as if they had not been married.

For this purpose, each spouse will be treated as owning the property during the period that either spouse owned the property.

(3) *Examples.* The provisions of this paragraph (b) are illustrated by the following examples:

Example 1. Married taxpayers H and W sell their residence and the gain realized from the sale is $256,000. A and B meet the requirements of section 121 and file a joint return for the year of the sale. The entire amount of gain from the sale of their principal residence is excluded from gross income because the gain realized from the sale does not exceed the limitation amount of $500,000 available to taxpayers filing a joint return.

Example 2. During 1999, married taxpayers H and W each sell a residence that each had separately owned and used as a principal residence before their marriage. Each spouse meets the ownership and use tests for his or her respective residence. Neither spouse meets the use requirement for the other spouse's residence. H and W file a joint return for the year of the sales. The gain realized from the sale of H's residence is $200,000. The gain realized from the sale of W's residence is $300,000. Because the ownership and use requirements are met for each residence by each respective spouse, H and W are eligible to exclude up to $250,000 of gain from the sale of each of their residences. However, W may not use H's unused exclusion to exclude gain in excess of her exclusion amount. Therefore, H and W must recognize $50,000 of the gain realized on the sale of W's residence.

Example 3. Married taxpayers H and W sell their residence and file a joint return for the year of the sale. Section 1.121–3 (relating to the reduced exclusion) does not apply to the sale of their residence. W, but not H, satisfies the requirements of section 121. They are eligible to exclude up to $250,000 of the gain from the sale of the residence because that is the sum of each spouse's dollar limitation amount determined on a separate basis as if they had not been married ($0 for H, $250,000 for W).

Example 4. Married taxpayers H and W have owned and used their principal residence since 1998. On February 16, 2001, H dies. On September 21, 2001, W sells the residence and realizes a gain of $350,000. Pursuant to section 6013(a)(3), W and H's executor make a joint return for 2001. All $350,000 may be excluded.

Example 5. Assume the same facts as *Example 4* except that W does not sell the residence until January 15, 2002. Because W's filing status for the taxable year of the sale is single, the special rules for joint returns under paragraph (b) of this section do not apply and W may exclude only $250,000 of the gain.

(c) *Application of section 121 to only 1 sale or exchange every 2 years*—(1) *In general.* Except as otherwise provided in § 1.121–3 (relating to the reduced exclusion), a taxpayer may not exclude from gross income gain from the sale or exchange of a principal residence if, during the 2-year period ending on the date of the sale or exchange, the taxpayer sold or exchanged other property for which gain was excluded under section 121. For purposes of this paragraph (c)(1), any sale or exchange before May 7, 1997 is disregarded.

(2) *Example.* The following example illustrates the rules of this paragraph (c):

Example. Taxpayer A owned a townhouse that he used as his principal residence for two full years, 1998 and 1999. A then bought a house in 2000 that he owned and used as his principal residence. A sells the townhouse in 2002 and excludes gain realized on its sale under section 121. A sells the house in the next year, 2003. Section 1.121–3 (relating to the reduced exclusion) does not apply to the sale of the house. Although A meets the 2-year ownership and use requirements of section 121, A is not eligible to exclude gain from the sale of the house because A excluded gain within the last 2 years under section 121 from the sale of the townhouse.

§ 1.121–3 Reduced exclusion.

(a) *Reduced exclusion for taxpayers failing to meet certain requirements; in general.* A reduced exclusion is available for a taxpayer who sells or exchanges property used as the taxpayer's principal residence but fails to satisfy the ownership and use requirements described in § 1.121–1(a)

or the 2-year limitation described in § 1.121–2(c). This reduced exclusion applies only if the sale or exchange is necessitated by a change in place of employment, health, or, to the extent provided in forms, instructions, or other appropriate guidance including regulations and letter rulings, unforeseen circumstances. The reduced exclusion is computed by multiplying the maximum dollar limitation of $250,000 ($500,000 for certain joint filers) by a fraction. The numerator of the fraction is the shortest of the period of time that the taxpayer owned the property as the taxpayer's principal residence during the 5-year period ending on the date of the sale or exchange; the period of time that the taxpayer used the property during the 5-year period ending on the date of the sale or exchange; or the period of time between the date of a prior sale or exchange of property for which the taxpayer excluded gain under section 121 and the date of the current sale or exchange. The numerator of the fraction may be expressed in days or months. The denominator of the fraction is 730 days or 24 months (depending on the measure of time used in the numerator).

(b) *Examples.* The following examples illustrate the rules of this section:

Example 1. Taxpayer A purchases a house that she uses as her principal residence. Twelve months after the purchase, A sells the house due to a change in place of her employment. A has not excluded gain under section 121 on a prior sale or exchange of property within the last 2 years. A is eligible to exclude up to $125,000 of the gain from the sale of her house ($^{12}/_{24} \times \$250,000$).

Example 2. (i) Taxpayer H owned a house that he used as his principal residence since 1996. On January 15, 1999, H and W marry and W begins to use H's house as her principal residence. On January 15, 2000, H sells the house due to a change in H's and W's place of employment. Neither H nor W has excluded gain under section 121 on a prior sale or exchange of property within the last 2 years.

(ii) Because H and W have not both used the house as their principal residence for at least 2 years during the 5-year period preceding its sale, the maximum dollar limitation amount that may be claimed by H and W will not be $500,000, but the sum of each spouse's limitation amount determined on a separate basis as if they had not been married. (See § 1.121–2(b)(2).)

(iii) H is eligible to exclude up to $250,000 of gain because he meets the requirements of section 121. W is not eligible to exclude the maximum dollar limitation amount. Instead, W is eligible to claim a reduced exclusion. Because the sale of the house is due to a change in place of employment, W is eligible to exclude up to $125,000 of the gain ($365/730 \times \$250,000$). Therefore, H and W are eligible to exclude up to $375,000 of gain ($250,000 + $125,000) from the sale of the house.

§ 1.121–4 Special rules.

(a) *Property of deceased spouse*—(1) *In general.* For purposes of satisfying the ownership and use requirements of section 121, a taxpayer is treated as owning and using property as the taxpayer's principal residence during any period that the taxpayer's deceased spouse owned and used the property as a principal residence before death if—

(i) The taxpayer's spouse is deceased on the date of the sale or exchange of the property; and

(ii) The taxpayer has not remarried at the time of the sale or exchange of the property.

(2) *Example.* The provisions of this paragraph (a) are illustrated by the following example:

Example. Taxpayer H has owned and used a house as his principal residence since January 1, 1987. H and W marry on January 1, 1999 and from that date they use H's house as their principal residence. H dies on January 15, 2000, and W inherits the property and continues to use the property as her principal residence. W sells the property on August 31, 2000, at which time she has not remarried. Although W has owned and used the house for less than 2 years, W will be considered to have satisfied the ownership and use requirements of section 121 because W's period of ownership and use includes the period that H owned and used the property before death.

(b) *Property owned by spouse or former spouse*—(1) *Property transferred to individual from spouse or former spouse.* If a taxpayer obtains property from a spouse or former spouse in a transaction described in section 1041(a), the period that the taxpayer owns the property will include the period that the spouse or former spouse owned the property.

(2) *Property used by spouse or former spouse.* A taxpayer is treated as using property as the taxpayer's principal residence for any period that the taxpayer has an ownership interest in the property and the taxpayer's spouse or former spouse is granted use of the property under a divorce or separation instrument (as defined in section 71(b)(2)), provided that the spouse or former spouse uses the property as a principal residence.

(c) *Tenant-stockholder in cooperative housing corporation.* A taxpayer who holds stock as a tenant-stockholder in a cooperative housing corporation (as those terms are defined in section 216(b)(1) and (2)) may be eligible to exclude gain under section 121 on the sale or exchange of the stock. In determining whether the taxpayer meets the requirements of section 121, the ownership requirements are applied to the holding of the stock and the use requirements are applied to the house or apartment that the taxpayer was entitled to occupy by reason of the taxpayer's stock ownership.

(d) *Involuntary conversions*—(1) *In general.* For purposes of section 121, the destruction, theft, seizure, requisition, or condemnation of property is treated as a sale of the property.

(2) *Application of section 1033.* In applying section 1033 (relating to involuntary conversions), the amount realized from the sale or exchange of property used as the taxpayer's principal residence is treated as being the amount determined without regard to section 121, reduced by the amount of gain excluded from the taxpayer's gross income under section 121.

(3) *Property acquired after involuntary conversion.* If the basis of the property acquired as a result of an involuntary conversion is determined (in whole or in part) under section 1033(b) (relating to the basis of property acquired through involuntary conversion), then for purposes of satisfying the requirements of section 121, the taxpayer will be treated as owning and using the acquired property as the taxpayer's principal residence during any period of time that the taxpayer owned and used the converted property as the taxpayer's principal residence.

(4) *Example.* The provisions of this paragraph (d) are illustrated by the following example:

Example. (i) On February 18, 1999, fire destroys Taxpayer A's house that had an adjusted basis of $80,000. A had owned and used this property as her principal residence for 20 years prior to its destruction. A's insurance company paid A $400,000 for the house. Thus, A realized a gain of $320,000 ($400,000 − $80,000). On August 27, 1999, A purchases a new house at a cost of $100,000.

(ii) Because the destruction of the house is treated as a sale for purposes of section 121, A will exclude $250,000 of the realized gain from A's gross income. For purposes of section 1033, the amount realized is then treated as being $150,000 ($400,000 − $250,000) and the gain realized is $70,000 ($150,000 amount realized − $80,000 basis). A elects under section 1033 to recognize only $50,000 of the gain ($150,000 amount realized − $100,000 cost of new house). The remaining $20,000 of gain is deferred and A's basis in the new house is $80,000 ($100,000 cost − $20,000 gain not recognized).

(iii) A will be treated as owning and using the new house as A's principal residence during the 20-year period that A owned and used the destroyed house.

(e) *Determination of use during periods of out-of-residence care.* If a taxpayer has become physically or mentally incapable of self-care and the taxpayer sells or exchanges property that the taxpayer owned and used as the taxpayer's principal residence for a period aggregating at least 1 year during the 5-year period preceding the sale or exchange, the taxpayer is treated as using the property as the taxpayer's principal residence for any period of time during the 5-year period in which the taxpayer owns the property and resides in any facility (including a nursing home) licensed by a State or political subdivision to care for an individual in the taxpayer's condition.

(f) *Sales of remainder interests*—(1) *In general.* A taxpayer may elect to have the section 121 exclusion apply to gain from the sale or exchange of a remainder interest in the taxpayer's principal residence.

(2) *Limitations*—(i) Sale or exchange of any other interest. If a taxpayer elects to exclude gain from the sale or exchange of a remainder interest in the taxpayer's principal residence, the section 121 exclusion will not apply to a sale or exchange of any other interest in the residence that is sold or exchanged separately.

(ii) *Sales to related parties.* Paragraph (f)(1) of this section will not apply to a sale or exchange by any person who bears a relationship to the taxpayer which is described in section 267(b) or 707(b).

(3) *Election.* The taxpayer makes the election under this paragraph (f) by filing a return for the taxable year of the sale or exchange that does not include the gain from the sale or exchange of the remainder interest in the taxpayer's gross income.

(g) *No exclusion for expatriates.* The section 121 exclusion will not apply to any sale or exchange by an individual if the treatment provided by section 877(a)(1) (relating to the treatment of expatriates) applies to the individual.

(h) *Election to have section not apply.* A taxpayer may elect to have the section 121 exclusion not apply to a sale or exchange of property. The taxpayer makes the election by filing a return for the taxable year of the sale or exchange that includes the gain from the sale or exchange of the taxpayer's principal residence in the taxpayer's gross income.

(i) *Residences acquired in rollovers under section 1034.* If a taxpayer acquires property (section 121 property) in a transaction that qualifies under section 1034 for the nonrecognition of gain realized on the sale or exchange of another property (section 1034 property) and later sells or exchanges the section 121 property, in determining the period of the taxpayer's ownership and use of the sold or exchanged section 121 property, the taxpayer may include the periods that the taxpayer owned and used the section 1034 property as the taxpayer's principal residence (and each prior residence taken into account under section 1223(7) in determining the holding period of the 1034 property).

§ 1.121–5 [Removed]

Par. 3. Section 1.121–5 is removed.

Par. 4. Section 1.1398–3 is added to read as follows:

§ 1.1398–3 Treatment of section 121 exclusion in individuals' title 11 cases.

(a) *Scope.* This section applies to cases under chapter 7 or chapter 11 of title 11 of the United States Code, but only if the debtor is an individual.

(b) *Definition and rules of general application.* For purposes of this section, section 121 exclusion means the exclusion of gain from the sale or exchange of a debtor's principal residence available under section 121.

(c) *Estate succeeds to exclusion upon commencement of case.* The bankruptcy estate succeeds to and takes into account the section 121 exclusion with respect to the property transferred into the estate.

(d) *Effective date.* This section is applicable for sales or exchanges that occur on or after the date these regulations are published as final regulations in the **Federal Register**.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 00–25482 Filed 10–6–00; 8:45 am]

BILLING CODE 4830–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA 4053; FRL–6883–5]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Approval of VOC and NO_X RACT Determinations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Commonwealth of Virginia's State Implementation Plan (SIP) which would establish reasonably available control technology (RACT) requirements for 16 major sources of volatile organic compound (VOC) and/or nitrogen oxide (NO_X)emissions.

DATES: Written comments must be received on or before November 9, 2000.

ADDRESSES: Written comments may be mailed to Makeba Morris, Chief, Permits and Technical Assessment Branch, Mailcode 3AP11, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Ray Chalmers, at (215) 814–2061, or by e-mail at chalmers.ray@epa.gov. Please note that while questions and requests for the Technical Support Document (TSD) prepared in support of this rulemaking may be submitted via e-mail, any comments on the proposed action must be submitted, in writing, to the Region III address as indicated above.

SUPPLEMENTARY INFORMATION:

I. Background Information Regarding RACT Requirements

Pursuant to sections 182 and 184 of the Clean Air Act (CAA), States are required to implement RACT for major sources of volatile organic compounds (VOCs) and/or nitrogen oxides (NO_X) emissions which are: (1) Located in those areas which have not attained the National Ambient Air Quality Standard for ozone (ozone nonattainment areas) which are designated in 40 CFR part 81 as having moderate or above nonattainment problems; or (2) located in the ozone transport region (OTR), which was established by section 184 of the CAA. A source is defined as major if its VOC and/or NO_X emissions exceed specified levels, defined in sections 182 and 184 of the CAA, which vary depending upon the ozone air quality designation of the area where the source is located, and on whether or not the source is located in the OTR.

Pursuant to the CAA's requirements, the Commonwealth of Virginia (the Commonwealth) submitted revisions to its SIP consisting of regulations pertaining to RACT requirements for major NO_X and VOC sources located in ozone nonattainment areas and in its portion of the OTR. The Commonwealth's regulation pertaining to RACT requirements for major NO_X sources, for which EPA granted

conditional limited approval on April 28, 1999 (64 FR 22789), provides that sources with steam generating units, process heaters, or gas turbines either accept specified RACT limits for these units or request case-by-case RACT determinations for them. The regulation also provides that sources with other types of emission units must obtain case-by-case RACT determinations for those units.

The Commonwealth's regulation pertaining to RACT requirements for major VOC sources, which EPA approved on March 12, 1997 (62 FR 11332), provides that subject sources obtain case-by-case RACT determinations.

When EPA granted conditional limited approval of the Commonwealth's RACT regulation applying to major NO_X sources, EPA established the condition that the Commonwealth was required to submit its case-by-case RACT determinations for NO_X sources to EPA for incorporation into the Commonwealth's SIP.

II. Description of the Commonwealth's RACT SIP Submittals

The Commonwealth established case-by-case RACT requirements for sources which had requested RACT determinations pursuant to the provisions of the Commonwealth's RACT regulations. This proposed rulemaking action pertains to the Commonwealth's request that EPA revise the Commonwealth's SIP to include the Commonwealth's case-by-case RACT SIP submittals for 16 sources. The Commonwealth's submittals consist of operating permits and/or consent agreements which contain the RACT requirements for each source, as well as supporting documentation.

The 16 sources for which the Commonwealth submitted case-by-case RACT determinations, their types and locations, the pollutants they emit for which RACT requirements are established, and the dates of the Commonwealth's RACT SIP submittals for them are listed in the table found in Section III below, entitled, ''Proposed RACT SIP Revision Approvals.'' The emission limitations and other RACT requirements for each of these sources are discussed in the TSD prepared by EPA in support of this proposed action. The TSD is included in the administrative record for this rulemaking action, and is available upon request from the EPA Region III office listed in the **ADDRESSES** section of this document.

III. Proposed RACT SIP Revision Approvals

EPA is proposing to approve the Commonwealth of Virginia's RACT SIP revisions for the sources listed in the table, below:

VIRGINIA—VOC AND NO_X RACT DETERMINATIONS FOR INDIVIDUAL SOURCES

Source	County	Date of submittal	Source type	Major source pollutant
Cellofoam North America, Inc.—Falmouth Plant.	Stafford	9/22/98	Polystyrene Insulation Production Plant.	NO_X
CNG Transmission Corp.—Leesburg Compressor Station.	Loudoun	5/23/00	Natural Gas Compressor Station.	NO_X and VOC
Columbia Gas Transmission Corporation—Loudoun County Compressor Station.	Loudoun	5/24/00	Natural Gas Compressor Station.	
District of Columbia's Department of Corrections— Lorton Prison.	Fairfax	4/20/00	Prison	NO_X and VOC
Michigan Cogeneration Systems, Inc.—Fairfax County I–95 Landfill Facility.	Fairfax	5/12/00	Landfill Gas Fired Electric Power Generation.	NO_X and VOC
Metropolitan Washington Airports Authority—Ronald Reagan Washington National Airport.	Arlington	5/22/00	Airport	NO_X
Nomen M. Cole, Jr., Pollution Control Plant	Fairfax	4/27/00	Wastewater Treatment Plant with Sewage Sludge Incinerators.	NO_X
Ogden Martin Systems of Alexandria/Arlington, Inc.	Arlington	9/14/98	Municipal Waste Combustion Plant.	NO_X
Ogden Martin Systems of Fairfax, Inc	Fairfax	8/31/98	Municipal Waste Combustion Plant.	NO_X
US Department of Defense—Pentagon Reservation.	Arlington	5/19/00	Pentagon Office Building	NO_X
Potomac Electric Power Company—Potomac River Generating Station.	Alexandria	9/3/98 (NO_X) 5/9/00 (VOC)	Electric Power Plant	NO_X and VOC
United States Marine Corps.—Quantico Base.	Prince William and Stafford.	5/25/00	Marine Corps Base	NO_X
Transcontinental Gas Pipe Line Corporation—Compressor Station # 185.	Prince William County.	5/5/97	Natural Gas Compressor Station.	NO_X
U.S. Army Garrison—Fort Belvoir	Fairfax	5/17/00	Fort Belvoir Army Base	NO_X
Virginia Power—Possum Point Plant	Prince William County.	8/31/00 (NO_X) 4/2/96 (VOC)	Electric Power Plant	NO_X and VOC
Washington Gas Light Company——Springfield Operations Center.	Fairfax	5/20/98	Natural Gas Fired Cogeneration Plant.	NO_X

IV. General Information Pertaining to SIP Submittals From the Commonwealth

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) ''privilege'' for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to

certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations.

Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Section 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information: (1) That are generated or developed before the commencement of a voluntary environmental assessment; (2) that are prepared independently of the assessment process; (3) that demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) that are required by law.

On January 12, 1997, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege law, Va. Code Section 10.1–1198, precludes granting a privilege to documents and information ''required by law,'' including documents and information ''required by federal law to maintain program delegation, authorization or approval,'' since Virginia must ''enforce federally authorized environmental programs in a manner that is no less stringent than their federal counterparts. * * *'' The opinion concludes that ''[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by federal law to maintain program delegation, authorization or approval.''

Virginia's Immunity law, Va. Code Section 10.1–1199, provides that ''[t]o the extent consistent with requirements imposed by Federal law,'' any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1997 opinion states that the quoted language renders this statute inapplicable to enforcement of any federally authorized programs, since ''no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with federal law, which is one of the criteria for immunity.'' Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the federal requirements.

In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on federal enforcement authorities, EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by this, or any, state audit privilege or immunity law.

V. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This proposed action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this proposed rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998).

This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order.

This proposed rule pertaining to RACT SIP revisions for 16 sources in Virginia does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: September 29, 2000.

Bradley M. Campbell,

Regional Administrator, Region III.

[FR Doc. 00–25931 Filed 10–6–00; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MT–001–0024, MT–001–0025, MT–001–0026; FRL–6883–6]

Clean Air Act Approval and Promulgation of Air Quality Implementation Plan; Montana; East Helena Lead State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to partially approve and partially disapprove the East Helena Lead (Pb) State Implementation Plan (SIP) revisions submitted by the Governor of Montana on August 16, 1995, July 2, 1996, and October 20, 1998. The EPA is proposing to grant a simultaneous partial approval and partial disapproval of these SIP revisions because, while they strengthen the SIP, they also do not fully meet the Act provisions regarding plan requirements for nonattainment areas. The intended effect of this action is to make federally enforceable those provisions that EPA is proposing to partially approve, and to not make federally enforceable those provisions that EPA is proposing to partially disapprove. The EPA is taking this action under sections 110, 179, and 301 of the Clean Air Act (Act).

DATES: Written comments must be received by November 9, 2000.

ADDRESSES: Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P-AR, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado, 80202. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado, 80202–2466. Copies of the State documents relevant to this action are available for public inspection at the Air and Waste Management Bureau, Montana Department of Environmental Quality, 1520 E. 6th Avenue, Helena, Montana, 59620–0901.

FOR FURTHER INFORMATION CONTACT: Kerri Fiedler, EPA Region VIII, (303) 312–6493 or Laurie Ostrand, EPA, Region VIII, (303) 312–6437.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we'', ''our'', or ''us'' is used, we mean EPA.

Table of Contents

I. Background

On October 5, 1978, we promulgated primary and secondary National Ambient Air Quality Standards (NAAQS) for Pb and its compounds, measured as elemental Pb (40 CFR 50.12). The primary and secondary standards were set at 1.5 micrograms per cubic meter ($\mu g/m^3$), maximum arithmetic mean, averaged over a calendar quarter. On July 9, 1984, we approved a revision to the Montana SIP which set forth a Pb control strategy to provide for attainment and maintenance of the Pb NAAQS in East Helena. In response to continuing violations of the Pb NAAQS following implementation of the July 9, 1984 SIP, on October 1, 1988, we sent a letter to the Governor of Montana, providing notification that the Pb SIP for East Helena was inadequate to attain and maintain the Pb NAAQS. We published this notification on December 2, 1988 in 53 FR 48642. Pursuant to the new authority in the 1990 amendments to the Act, on November 6, 1991, we designated the East Helena area as a nonattainment area for Pb. This designation was effective on January 6, 1992 and required the State to submit a Part D SIP by July 6, 1993. The SIP must provide for attainment of the Pb NAAQS as expeditiously as practicable, but no later than January 6, 1997.

The Montana Department of Environmental Quality (MDEQ) developed the Pb SIP for East Helena in consultation with the ASARCO primary Pb smelter, the major Pb source in East Helena, and American Chemet, a paint pigment plant. The State's efforts have been coordinated with us to ensure compliance with SIP requirements. On August 16, 1995, the Governor of Montana submitted the first Pb SIP revision. This submittal consists of (1) a Montana Board of Environmental Review (MBER) approved order which adopted the stipulation between MDEQ and ASARCO, as well as controlled emissions on some of the streets of East Helena, and (2) a MBER approved order which adopted the stipulation between MDEQ and American Chemet. On July 2, 1996, the Governor of Montana submitted the second Pb SIP revision. This submittal consists of MBER orders and stipulations, between MDEQ and ASARCO, approved on April 12, 1996 and June 21, 1996. The Governor of Montana submitted the third Pb SIP revision on October 20, 1998 which included an August 28, 1998 board order adopting the stipulation between MDEQ and ASARCO. The third Pb SIP revision, dated October 20, 1998, was submitted to make the SIP consistent with permit conditions in Montana Air Quality Permits #2557–08, dated January 3, 1997, and #2557–09, dated April 6, 1998. On April 28, 2000, MDEQ submitted a formatting revision to the SIP correcting a typographical error in the footnotes of the SIP.

II. Criteria for Approval

These Pb SIP revisions were reviewed using the criteria established by the Act. The requirements for all SIPs are contained in section 110(a)(2) of the Act. Section 172(c) of the Act specifies the provisions applicable to areas designated as nonattainment for any of the NAAQS. Further guidance and criteria are set forth in the ''State Implementation Plans for Lead Nonattainment Areas; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' (58 FR 67748).

III. Evaluation of the State's Submittal

Our Technical Support Document (TSD) for this action discusses our criteria for deciding whether to approve or disapprove the East Helena Pb SIP and whether or not the State of Montana's submittals satisfy those criteria. The TSD also discusses most of the issues we raised on various drafts and final submittals of the East Helena Pb SIP revisions and how the State of Montana addressed these issues. See the TSD for a more detailed review of the

Pb SIP and how it satisfies the Act's requirements.

A. Why Is EPA Proposing To Partially Approve the State of Montana's Plan?

We are proposing to partially approve the East Helena Pb SIP revisions, submitted by the Governor of Montana on August 16, 1995, July 2, 1996, and October 20, 1998. Except for those provisions that we are proposing to partially disapprove, we believe the submitted plans satisfy the Act's requirements for Pb nonattainment areas.

1. August 16, 1995 SIP Revision

On August 16, 1995, the Governor of Montana submitted the first Pb SIP revision. This submittal consists of (1) a MBER approved order which adopted the stipulation between MDEQ and ASARCO to limit Pb emissions from ASARCO's Pb smelting operations as well as controlled emissions on some of the streets of East Helena, and (2) a MBER approved order which adopted the stipulation between MDEQ and American Chemet to limit Pb emissions from the #1 Copper Furnace Baghouse Stack.

2. July 2, 1996 SIP Revision

On July 2, 1996, the Governor of Montana submitted the second Pb SIP revision. This submittal contains a series of orders approved by the MBER adopting stipulations between MDEQ and ASARCO. An April 12, 1996 board order and stipulation allows ASARCO operational flexibility, while still assuring attainment and maintenance of the NAAQS for Pb in the East Helena area. A June 21, 1996 board order and stipulation revises ASARCO's method for handling furnace Pb based on safety and engineering concerns.

On March 24, 1998, we sent MDEQ comments on this Pb SIP revision asking for clarification on emission limits and inventory, air modeling, ambient data, department discretion, and other general issues. Based on the November 16, 1999 response from MDEQ, we have determined the SIP revision is acceptable, except for the department discretion issues and enforceability concerns with two test methods. We are proposing to grant a partial disapproval due to the department discretion issues and enforceability concerns with two test methods in the East Helena Pb SIP.

3. October 20, 1998 SIP Revision

On October 20, 1998, the Governor of Montana submitted the third Pb SIP revision which included a June 12, 1998 board order adopting the stipulation between MDEQ and ASARCO. These modifications allow ASARCO to change the emission control and ventilation system for a specific operation. These changes to the emission control system will not result in any changes in emission limitations at the ASARCO facility. On April 28, 2000, MDEQ submitted a formatting revision to the SIP correcting a typographical error in the footnotes of the SIP.

On September 9, 1998, the MDEQ responded to our comments on the draft version of this Pb SIP revision. We were concerned the proposed changes contravened our stack height rules, and questioned ASARCO's possible use of dispersion techniques, such as changes in volumetric flow rate and final exhaust gas plume rise. The MDEQ adequately documented its basis for concluding that the proposed changes do not constitute prohibited dispersion techniques and assured us that the proposed changes comply with the stack height rules. We have concluded, based on the information MDEQ provided, that these revisions result in a negligible change in volumetric flow rate and final exhaust gas plume rise, and result in no change in the operation of specific equipment or other parameters that might affect the exhaust gas stream. Therefore, we agree that the changes at ASARCO do not contravene section 123 of the Act or our stack height rules.

Section 110(k) of the Act addresses our actions on submissions of SIP revisions. The Act also requires States to observe certain procedures in developing SIP revisions. Section 110(a)(2) of the Act requires that each SIP revision be adopted after reasonable notice and public hearing. We have evaluated the State's submissions and determined that the necessary procedures were followed.

B. Why Is EPA Proposing To Partially Disapprove The State of Montana's Plan?

We are proposing to partially disapprove this SIP revision, because it does not fully meet the Act provisions regarding plan submissions and requirements for nonattainment areas. The current version of East Helena's Pb SIP does not conform to the requirement of section 110(a)(2) of the Act that SIP limits must be enforecable nor to the requirement of section 110(i) that the SIP can only be modified through the SIP revision process. In our March 24, 1998 letter to MDEQ, we raised concerns about places in the stipulation where MDEQ has the discretion to modify existing provisions, or add future documents or compliance monitoring methods to the Pb SIP. The stipulations were not clear whether any of these changes would be submitted as SIP revisions or by any other process for us to review and approve. We indicated in places where the stipulation allowed MDEQ to exercise discretion, the words ''and EPA'' must be added. The State did not revise the SIP to address our concern and in its November 16, 1999 response, MDEQ indicated that the department discretion issues would be addressed at a later date. We are proposing to partially disapprove the SIP because of the provisions which allow department discretion and two provisions which contain enforceability issues related to the test method.

C. What Happens When EPA Partially Approves and Partially Disapproves the State of Montana's Plan?

By partially approving the SIP, we are making those portions of the State's submittal federally enforceable (and enforceable by citizens under the Act). These portions of the SIP that we partially disapprove are not made federally enforceable. We believe that the proposed partial approval of the East Helena Pb SIP, except for those provisions that we are proposing to partially disapprove, satisfy the Act's criteria for Pb nonattainment SIPs. Even though we are proposing to partially disapprove portions of the SIP, the State is not required to revise the SIP to fully meet the Act's Pb nonattainment requirements. Therefore, because the State is not required to complete any further SIP revisions as a result of the partial disapproval, sanctions and Federal Implementation Plan clocks (FIP) under sections 179(a) and 110(c), repsectively, will not be started if we finalize our proposal to partially disapprove the East Helena Pb SIP.

D. Emission Inventory

Section 172(c)(3) of the Act requires that nonattainment plan provisions include a comprehensive, accurate, current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area. The MDEQ identified three major sources of Pb in the East Helena area: the ASARCO Smelter complex; re-entrained dust from the roads of East Helena; and the American Chemet copper oxide manufacturing facility.

1. ASARCO

The North American Weather Consultants (NAWC) conducted a detailed Pb emission inventory of the ASARCO smelter facility in the summer and fall of 1990. The NAWC developed a complete testing protocol describing test locations and actual test methods. The final emission inventory is located

in the ''ASARCO East Helena Primary Lead Smelter Task 5 Summary Report Volumes 1–5,'' NAWC, May 1992. We reviewed the testing protocol and emissions inventory in detail and provided numerous comments to the State. The State and ASARCO responded to most of our comments. We believe the report provides, for the most part, a complete and accurate Pb emission inventory of the entire facility for use in dispersion modeling studies.

2. East Helena Area

The MDEQ conducted a base year Pb emission inventory of the town of East Helena. The final report is entitled ''East Helena Lead Emission Inventory'' and dated February 1992. This effort focused mainly on the Pb emissions from re-entrained road dust but also included Pb emission estimates from automobile exhaust, wind erosion of barren ground, and agricultural tillage. The base year selected for this study ran from July 1, 1990 through June 30, 1991. Results of the study show that re-entrained road dust accounts for 93.6% of the total annual Pb emissions, while automobile tailpipe emissions contribute 3.8%. The remaining 2.6% of the total Pb emissions comes from parking lots, unpaved roads, wind erosion, and agricultural sources.[1]

3. American Chemet

The MDEQ conducted an emissions inventory of the American Chemet facility between July 1, 1990 and June 30, 1991. The MDEQ used historical testing data, along with a log of actual hours of operation, and material processed, to estimate Pb emissions during the study period. The MDEQ inventoried a total of 16 point sources, including scrubber and baghouse exhausts, during the study period. A supplemental report prepared by the Department, entitled ''American Chemet Corporation 1990 Emission Inventory,'' contains complete details of the emission inventory for American Chemet.

Results of the emission inventory showed that only one point source, the #1 Copper Furnace Baghouse Stack (previously referred to as the pyrometallurgical process baghouse stack), had Pb emissions significant enough to be considered in the Pb SIP revision for East Helena. None of the other sources at this facility were considered further in the Pb SIP. We support the emission inventories prepared for the sources in the Pb nonattainment area because they appear to be accurate and MDEQ has addressed our previously identified concerns.

E. Reasonably Available Control Measures (RACM)/Reasonably Available Control Technology (RACT)

Section 172(c)(1) of the Act mandates that SIPs provide for the implementation of RACM as expeditiously as practicable, including RACT. Our Addendum to the General Preamble for the implementation of Title I of the Act defines RACT for Pb as a control technology which is necessary to achieve the NAAQS (58 FR 67750, December 22, 1993). The same document provides that RACM for Pb should be determined by evaluating the available control measures for reasonableness, considering their technological feasibility, and the cost of control in the area to which the SIP applies. In determining what is reasonably available (for RACM), our guidance indicates that areas should evaluate all the measures contained in Appendix 1 to the Lead Addendum to the General Preamble, and provide a reasoned justification for rejection of any available control measure. Based on our comparison of the available control measures (identified in Appendix 1) and those incorporated into this Pb SIP, we find that, for the most part, ASARCO is implementing most of the available measures. Therefore, we believe the State has demonstrated that the control measures applied to ASARCO, American Chemet, and the streets of East Helena are reasonable and will maintain the Pb NAAQS.

F. Emission Limit Requirements

The control strategy for the Pb SIP requires ASARCO to enclose various buildings or areas, install baghouses, develop a new technology for handling furnace Pb, capture fugitive emissions, build dust conveying and handling systems, and eliminate some emission sources. In addition, there are emission limitations on various emission points, process weight limitations, time-of-day restrictions and wind speed limitations on material handling, minimum ventilation requirements on building ventilation systems, and property access restrictions. There is also a five percent visible emission limitation on the paved and unpaved roads and areas within the ASARCO facility, and a requirement to treat the unpaved areas and sweep the paved areas to reduce fugitive Pb emissions.

The MDEQ has offered American Chemet two options as part of the control strategy. If American Chemet chooses not to build a new stack, it is subject to a more stringent emission limit on its existing stack. If it chooses to build a higher stack, it has a less stringent emission limit on the new stack. Regardless of the option chosen, modeling has shown that the area will continue to attain the Pb NAAQS. Finally, American Chemet will also adopt a limit on the Pb content of its plant feed material.

With respect to the East Helena road dust, MDEQ requires ASARCO to sample road dust on paved public streets and roads, and maintain the streets so that they meet the quarterly average Pb loading limits.

G. Enforceability

All measures and other elements in this Pb SIP revision must be enforceable by the State and us (see sections 172(c)(6), 110(a)(2)(A), and 57 FR 13556). The ASARCO and American Chemet stipulations explicitly provide for applicability of the regulations, compliance dates, compliance periods, recordkeeping requirements, test methods, and malfunction provisions. In our judgement, these provisions are sufficiently clear and prescriptive to meet reasonable standards of enforceability, with two exceptions. The current version of East Helena's Pb SIP does not conform to requirements of the Act nor our policy with respect to department discretion and enforceability. In our March 24, 1998 letter to MDEQ, we raised concerns about places in the stipulation where MDEQ has the discretion to modify existing provisions or add future documents or compliance monitoring methods to the Pb SIP. The stipulations were not clear whether any of these changes would be submitted as SIP revisions or by any other process for us to review and approve. We indicated in places where the stipulation allowed MDEQ to exercise discretion, the words ''and EPA'' must be added. The provisions containing department

[1] In responding to our March 24, 1998 letter, MDEQ could not find documentation of the methods utilized to calculate the East Helena area values in the attainment demonstration. The MDEQ recalculated the post-control emissions (attainment demonstration) for the paved roads and parking lots in East Helena. In the recalculation, MDEQ found that the sector-specific emission rates are less than the corresponding values used in the attainment demonstration, except for sector #49. Although sector #49 emission rates are now calculated to be higher (20 percent higher by one method, one percent higher by another method) than those used in the attainment demonstration, MDEQ does not believe they are so much higher that the attainment demonstration is invalid. We believe that the recalculated values are acceptable and that any future modeling for East Helena should rely on the recalculated emission inventory for the East Helena paved roads and parking lots.

discretion are discussed in Table 1 below:

TABLE 1.—DEPARTMENT DISCRETION

Provision No.	Description
ASARCO Stipulation Provision 15 and American Chemet Stipulation Provision 20.	Indicates that stipulations may be modified when sufficient grounds exist. For example, if the State demonstrates through modeling or other means that an alternative plan could still meet the NAAQS, the plan could be modified. Although our March 24, 1998 letter may have indicated that these provisions would be acceptable if MDEQ could confirm our interpretations, we now believe these provisions need to be revised in the same way that the State revised similar in stipulations in the Billings SIP.
ASARCO Stipulation Provision 16.	Indicates that revisions to attachments of the stipulation can occur, once approved by MDEQ. The stipulation is not clear as to whether MDEQ approval means the revised attachments will be deemed incorporated into the SIP. We believe that since the attachments are a part of the SIP and pertain mostly to enforceability provisions, any revision to an attachment should be evaluated for significance[2] and if determined to be significant, the revision must be approved as a SIP revision or approved through the Title V process.[3] We suggested to MDEQ that where the ''Department'' appears in the stipulations ''and EPA'' should be added.
ASARCO Exhibit A, Section 6.	References Attachment 6 Quality Assurance/Quality Control (QA/QC) and Standard Operating Procedures (SOP) for Continuous Opacity Monitoring Systems. Any revision to an attachment and provision should be evaluated for significance,[4] and if determined to be significant, the revision must be approved as a SIP revision or approved through the Title V process. EPA has suggested to MDEQ that where the ''Department'' appears in the stipulations ''and EPA'' should be added.
ASARCO Exhibit A, Section 7(A)(2).	Indicates certain test methods are to be used or other methods approved by MDEQ. Any revision to a testing method or provision should be evaluated for significance,[5] and if determined to be significant, the revision must be approved as a SIP revision or approved through the Title V process. EPA has suggested to MDEQ that where the ''Department'' appears in the stipulations ''and EPA'' should be added.
ASARCO Exhibit A, Section 11(C).	Indicates if the Baghouse Maintenance Plan, Attachment 7, is revised it needs to be reviewed and approved by MDEQ. Any revision to an attachment should be evaluated for significance,[6] and if determined to be significant, the revision must be approved as a SIP revision or approved through the Title V process. EPA has suggested to MDEQ that where the ''Department'' appears in the stipulations ''and EPA'' should be added.
ASARCO Exhibit A, Section 12(A)(7).	Indicates the Baghouse Maintenance Plan, Attachment 7, will need further revisions. Once revised, it will be reviewed and approved by MDEQ. Any revision to an attachment should be evaluated for significance,[7] and if determined to be significant, the revision must be approved as a SIP revision or approved through the Title V process. EPA has suggested to MDEQ that where the ''Department'' appears in the stipulations ''and EPA'' should be added.
ASARCO Exhibit A, Section 12(B).	Indicates if attachments are revised they need to be reviewed and approved by MDEQ. Any revision to an attachment should be evaluated for significance,[8] and if determined to be significant, the revision must be approved as a SIP revision or approved through the Title V process. EPA has suggested to MDEQ that where the ''Department'' appears in the stipulations ''and EPA'' should be added.

In addition to the department discretion issues, we believe that sections 2(A)(22) and 2(A)(28), of ASARCO Exhibit A, contain enforceability problems. These sections, which discuss how moisture content and silt content will be determined, indicate that sampling will be performed by specified methods or equivalent methods. The definition is not clear who will determine that the equivalent methods are acceptable. Any revision to a testing method or provision should be evaluated for significance and if determined to be significant, the revision must be approved as a SIP revision or approved through the Title V process. (See footnote 2 above.)

Because these provisions could allow changes in requirements without EPA and public review or EPA approval, and could allow use of test methods not accepted by us, the East Helena Pb SIP revisions present Federal enforceability issues and thus fail to comply with the general enforceability provisions of section 172(c)(6) of the Act. Therefore, we are proposing to partially approve and partially disapprove the Pb SIP revision under section 110(k)(3) of the Act. With this partial approval and partial disapproval, we are incorporating into the federally approved SIP all provisions of the stipulation, exhibits, and attachments except those provisions that allow the Department or sources to modify the SIP without seeking SIP approval through us. (Please see the proposed regulatory text at the end of this notice for the exact provisions we are proposing to partially disapprove.) We note that portions of the SIP we are proposing to partially approve indicate that under certain circumstances ASARCO may need to revise attachments to Exhibit A. Since we are not proposing to approve the Department's discretion to allow these revisions unilaterally, we interpret these provisions to mean that revisions

[2] We interpret ''evaluated for significance'' to mean that the State must submit to us all modifications to SIP text (including minor and clerical corrections or modifications) and all MDEQ approvals of alternative requirements and methodologies. If the modification to text or alternative requirement or methodology is proposed as a ''minor modification'' (or clerical correction) we will inform the State within 45 days from the date of submittal of our determination whether the modification or alternative is major or minor, and if it is minor, of our determination within 45 days does not mean that the modification or alternative is minor and is approved.) If we do not approve the modification of text or alternative requirement or mentodology as minor, the State must adopt the modification as a SIP revision in accordance with section 110(a)(2) of the Act and submit it to us for approval. We will then act on the SIP revision rulemaking under the Administrative Procedure Act.

[3] As indicated in our March 24, 1998 letter, to use the Title V approach, the stipulation or SIP document should contain enabling language that would allow the SIP to be revised through the Title V permit process. Our march 5, 1996 memorandum, ''White Paper Number 2 for Improved Implementation of the Part 70 Operating Permits Program,'' (White Pager) suggests enabling language in Attachment B II. This White Pager (section II.A and Attachment A) discuss the streamlining provess that must be followed in order to revise SIP's through the Title V permit. Note, however, that until the sate is actucally using Title V permits for these sources, a source-specicfic SIP revision would be necessary.

[4] See footnote 2 above.

[4] See footnote 2 above.

[5] See footnote 2 above.

[6] See footnote 2 above.

[7] See footnote 2 above.

[8] See footnote 2 above.

to the attachments for Exhibit A will be adopted at the State level and submitted as a SIP revision to us for approval. Additionally, we do not believe that our proposed partial disapproval of the above-mentioned provisions would render the SIP more stringent than the State of Montana intends, since our action does not change the stringency of any of the substantive requirements the State of Montana has imposed and is currently able to enforce under the SIP.

H. Reasonable Further Progress (RFP)

The Pb SIP must provide for RFP, defined in section 172(c)(2) of the Act as such reductions in emissions of the relevant air pollutant as are required by Part D, or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable NAAQS by the applicable date. As discussed in the Lead Addendum to the General Preamble, we construe RFP as ''adherence to an ambitious compliance schedule'' which is expected to periodically yield significant emission reductions, and, as necessary, linear progress. The Pb SIP provides for an ambitious compliance schedule but does not quantify the achievable emission reductions for each measure, since most of the measures should be implemented by the attainment date and not on a staggered schedule before the attainment date. However, since the attainment date of January 6, 1997 has passed and all evidence indicates that the area is attaining the Pb NAAQS, we conclude this Pb SIP has met the RFP requirements.

I. Contingency Measures

As provided in section 172(c)(9) of the Act, all nonattainment area SIPs must include contingency measures. Contingency measures should consist of other available measures that are not part of the area's control strategy for attaining the NAAQS. These measures must take effect without further action by the state or us, upon a determination that the area has failed to meet RFP or attain the Pb NAAQS by the applicable statutory deadline. The MDEQ will implement the contingency measures for the East Helena Pb SIP following a Pb NAAQS violation after the first calendar quarter of 1997, or if there is a lack of RFP. The contingency measures consist of two tiers, Tier I and Tier II. The MDEQ has designed the two-tier approach to address possible multiple violations, and to target any significant additional sources of Pb as predicted by the model.

Tier I contingency measures contain measures such as reducing outdoor storage of sinter material, ceasing operation during the night shift, imposing a more stringent Pb loading limit on the East Helena paved roads, paving or treating some unpaved streets in East Helena, and reducing spills on East Helena streets. The Tier II contingency measures contain measures such as imposing an even more stringent Pb loading limit on the East Helena paved roads, eliminating all storage and handling of sinter outdoors, and paving or covering 50,000 square feet of surface area within the ASARCO facility. If ASARCO implements these measures as a result of a failure to make RFP, once the RFP deficiency has been corrected, the contingency measures will be lifted. If these measures are implemented due to a violation of the Pb NAAQS, the measures will remain in effect until the Board approves a revised Pb SIP. We believe the Pb SIP meets the contingency measures requirements.

J. Attainment of the Pb NAAQS

Section 192(a) of the Act requires that SIPs must provide for attainment of the Pb NAAQS as expeditiously as practicable but not later than five years from the date of an area's nonattainmnet designation. Through modeling, the State has demonstrated that the emission points (at ASARCO and American Chemet), and the area emissions from the streets of East Helena, at their allowable limits, will protect the Pb NAAQS, *i.e.,* there will be no violations of the Pb NAAQS. Subsequent to the initial modeled attainment demonstration, there have been a few changes to the control strategy, but we believe they will not cause or contribute to a violation of the NAAQS. First, ASARCO increased the percent Pb per pot processed which correlates to an increase in the Pb emission limit at the Laboratory Assay Stacks. In our March 24, 1998 letter to MDEQ, we requested that MDEQ provide us with the modeling diskettes. In its November 16, 1999 response, MDEQ indicated there are no diskettes because it did not rerun the model, but simply extracted the values from the previous model, and scaled up the predicted concentrations. We have determined this to be sufficient because: (1) The emission point is one of the smaller sources, (2) there is a linear relationship between the percent Pb per pot processed and the Pb emission limit, (when percent Pb per pot processed increases, the Pb emission limit increases at the same rate) and (3) when the limit is scaled up, there was not an exceedance of the Pb NAAQS.

Secondly, American Chemet may elect to raise its stack. The American Chemet stipulation allows American Chemet to choose between one of two emission limits depending on the stack height (20 meters (m) or 8.8 m). The July 1995 air modeling report shows the American Chemet Copper Furnace stack was only modeled at 20 m. In our March 24, 1998 letter to MDEQ, we questioned if the American Chemet Copper Furnace stack was modeled at the 8.8 m stack height. In its November 16, 1999 response, MDEQ indicated the stack was modeled at its current height of 8.8 m in the 1993 modeling effort. The 1993 modeling report and diskettes were forwarded to us in 1994. We have evaluated the modeled ambient impacts from the 8.8 m stack in conjunction with the 1995 modeled ambient impacts and believe the attainment modeling demonstration is sufficient and satisfies our concerns. The 1993 study showed that the Pb NAAQS could be attained when the American Chemet stack is modeled at 8.8 m. There is very little difference in total predicted Pb concentrations between an 8.8 m stack height and a 20 m stack height, because this source represents less than 0.5 percent of the emissions that were modeled in the attainment demonstration. The difference in modeled concentration is negligible.

Finally, in its November 16, 1999 letter, MDEQ indicated it recalculated the East Helena area emissions because it could not recreate how the control emission inventory (attainment inventory) was generated in the past. Except for one road segment, all other East Helena paved roads and parking lots were recalculated to have fewer emissions than those used in the attainment demonstration. We accept the recalculation and do not think it is necessary to remodel for that one road segment, because it appears likely that the emission increases on the road section would be more than offset in the modeling results by the emission decreases from the parking lots and other road sections. The net result would likely be slightly lower predicted Pb concentrations at the highest concentration receptor sites. With these changes, the attainment modeling shows the SIP will protect the Pb NAAQS. The most sensitive receptor in the modeling domain was modeled at 1.47 $\mu g/m^3$ of Pb, demonstrating compliance with the Pb NAAQS of 1.50 $\mu g/m^3$. However, any future permit or SIP action that involves modeling must fully incorporate all the revisions mentioned above. [9]

[9] In addition, any future permit or SIP action must assure that emissions from the Acid Dust Bin Baghouse Stack (17P) must be modeled as an independent source and at a stack height equal to 65 meters. Please see TSD for further discussion.

Under section 179(c)(1), we have the responsibility for determining whether a nonattainment area has attained the Pb NAAQS. We must make an attainment determination as expeditiously as practicable, but no later than 6 months after the attainment date for the area. The attainment date for East Helena was January 6, 1997. We will make the attainment determination for a nonattainment area based solely on an area's air quality data. Based on the air quality data currently in the AIRS database and pursuant to section 179(c)(1) of the Act, we have determined that the East Helena Pb nonattainment area has attainined the Pb NAAQS through calendar year 1999.

While we may determine that an area's air quality data indicate the area may be meeting the Pb NAAQS for a specified period of time, this does not eliminate the State's responsibility under the Act to continue to implement the requirements under the approved Pb SIP. Even if we determine that an area has attained the standard, the area will remain designated as nonattainment until the State has requested, and we approve the State's request, for re-designation to attainment. In order for an area to be re-designated to attainment, the State must comply with the requirements listed under sections 107(d)(3)(E) and 172(a) of the Act.

IV. Request for Public Comment

We are soliciting public comment on all aspects of this proposed SIP rulemaking action. Send your comments in duplicate to the address listed above in the front of this Notice. We'll consider your comments in deciding our final action if your letter is received before November 9, 2000.

V. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

C. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

D. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This proposed partial approval will not have a significant impact on a substantial number of small entities because SIP approvals under sections 110 and 301 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action.

The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

This proposed partial disapproval rule will not have a significant impact on substantial number of small entities because this partial disapproval only affects two sources, ASARCO and American Chemet. Only a limited number of sources are impacted by this action. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities. Furthermore, as explained in this notice, the submission does not meet the requirements of the Clean Air Act and EPA cannot approve the submission. EPA has no option but to partially disapprove the submittal. The limited approval will not affect any existing State requirements applicable to small entities. Federal disapproval of a State submittal does not affect its State enforceability.

F. Unfunded Mandates

Under sections 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action proposes approval of pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

Dated: September 28, 2000.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

Part 52, Chapter I, title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart BB—Montana

2. Section 52.1370 is proposed to be amended by adding paragraph (c)(51) to read as follows:

§ 52.1370 Identification of plan.

* * * * *

(c) * * *

(51) The Governor of Montana submitted the East Helena Lead SIP revisions with letters dated August 16, 1995, July 2, 1996, and October 20, 1998. The revisions address regulating lead emissions from ASARCO, American Chemet, and re-entrained road dust from the streets of East Helena.

(i) Incorporation by reference.

(A) Board order issued on August 28, 1998, by the Montana Board of Environmental Review adopting and incorporating the stipulation of the Montana Department of Environmental Quality and ASARCO including exhibit A and attachments to the stipulation, excluding the following:

(*1*) The words, ''or an equivalent procedure'' in the second and third sentences in section 2(A)(22) of exhibit A;

(*2*) The words, ''or an equivalent procedure'' in the second and third sentences in section 2(A)(28) of exhibit A;

(*3*) The sentence, ''Any revised documents are subject to review and approval by the Department as described in section 12,'' from section 6(E) of exhibit A;

(*4*) The words, ''or a method approved by the Department in accordance with the Montana Source Testing Protocol and Procedures Manual shall be used to measure the volumetric flow rate at each location identified,'' in section 7(A)(2) of exhibit A;

(*5*) The sentence, ''Such a revised document shall be subject to review and approval by the Department as described in section 12,'' in section 11(C) of exhibit A;

(*6*) The sentences, ''This revised Attachment shall be subject to the review and approval procedures outlined in Section 12(B). The Baghouse Maintenance Plan shall be effective only upon full approval of the plan, as revised. This approval shall be obtained from the Department by January 6, 1997. This deadline shall be extended to the extent that the Department has exceeded the time allowed in Section 12(B) for its review and approval of the revised document,'' in section 12(A)(7) of exhibit A;

(*7*) Section 12(B) of exhibit A.

(B) June 21, 1996 stipulation of the Montana Department of Environmental Quality and ASARCO including exhibit A and attachments to the stipulation, excluding paragraphs 15 and 16 of the stipulation.

(C) Board order issued on August 4, 1995, by the Montana Board of Environmental Review adopting and incorporating the stipulation of the Montana Department of Environmental Quality and American Chemet including exhibit A to the stipulation, excluding paragraph 20 of the stipulation.

(ii) Additional Material.

(A) All portions of the August 16, 1995 East Helena Pb SIP submitted other than the orders, stipulations and exhibit A's and attachments to the stipulations.

(B) All portions of the July 2, 1996 East Helena Pb SIP submitted other than the orders, stipulations and exhibit A's and attachments to the stipulations.

(C) All portions of the October 20, 1998 East Helena Pb SIP submitted other than the orders, stipulations and exhibit A's and attachments to the stipulations.

(D) Montana Air Quality Permit #2557–08, dated January 3, 1997.

(E) Montana Air Quality Permit #2557–09, dated April 6, 1998.

(F) November 16, 1999 letter from Art Compton, Division Administrator, Planning, Prevention and Assistance Division, Montana Department of Environmental Quality, to Richard R. Long, Director, Air and Radiation Program, EPA Region VIII.

(G) September 9, 1998 letter from Richard A. Southwick, Point Source SIP Coordinator, Montana Department of Environmental Quality, to Richard R. Long, Director, Air and Radiation Program, EPA Region VIII.

[FR Doc. 00–25929 Filed 10–6–00; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 447

[HCFA–2071–P]

RIN 0938–AK12

Medicaid Program; Revision to Medicaid Upper Payment Limit Requirements for Hospital Services, Nursing Facility Services, Intermediate Care Facility Services for the Mentally Retarded, and Clinic Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule would modify Medicaid upper payment limits for inpatient hospital services, outpatient hospital services, nursing facility services, intermediate care facility services for the mentally retarded, and clinic services. For each type of Medicaid inpatient service, current regulations place an upper limit on overall aggregate payments to all facilities and a separate aggregate upper limit on payments made to State-operated facilities. This proposed rule would establish a third aggregate upper limit that would apply to payments made to all other types of government facilities that are not State-owned or operated facilities.

With respect to outpatient hospital and clinic services, current regulations place a single upper limit on aggregate payments made to all facilities. For these services, this proposed rule would establish a separate aggregate upper limit on payments made to State-owned or operated facilities and an aggregate upper limit on payments made to all other government-owned or operated facilities.

These proposed upper limits are necessary to ensure State Medicaid payment systems promote economy and efficiency, while recognizing the higher cost of inpatient and outpatient services in public hospitals. In addition, to ensure continued access to care and the ability to adjust to proposed changes, the proposed rule includes a transition for States with approved State plan amendments.

DATES: We will consider comments if we receive them at the appropriate address, as provided below, no later than 5 p.m. on November 9, 2000.

ADDRESSES: Mail written comments (1 original and 3 copies) to the following address ONLY: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA–2071–P, P.O. Box 8010, Baltimore, MD 21244–8010.

Because comments must be *received* by the date specified above, please allow sufficient time for mailed comments to be timely received in the event of delivery delays.

If you prefer, you may deliver your written comments (1 original and 3 copies) to one of the following addresses: Room 443–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or Room C5–14–03, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Comments mailed to the two above addresses may be delayed and received too late to be considered.

FOR FURTHER INFORMATION CONTACT: Robert Weaver, (410) 786–5914—Nursing facility services and intermediate care facility services for the mentally retarded.

Larry Reed, (410) 786–3325—Inpatient and outpatient hospital services and clinic services.

SUPPLEMENTARY INFORMATION: Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA–2071–P. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 443–G of the Department's office at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 to 5 p.m. (phone: (202) 690–7890).

This **Federal Register** document is also available from the **Federal Register** online database through GPO Access, a service of the U.S. Government Printing Office. The Website address is: http://www.access.gpo.gov/nara/index.html.

I. Statutory and Regulatory Framework

Title XIX of the Social Security Act (the Act) authorizes Federal grants to States for Medicaid programs that provide medical assistance to low-income families, elderly and persons with disabilities. Each State Medicaid program is administered by the State in accordance with an approved State plan. While the State has considerable flexibility in designing its State plan and operating its Medicaid program, it must comply with Federal requirements specified in the Medicaid statute, regulation and program guidance. Additionally, the plan must be approved by the Secretary, who has delegated this authority to HCFA.

Section 1902(a)(30) of the Act requires a State plan to meet certain requirements in setting payment amounts to obtain Medicaid care and services. One of these requirements is that payment for care and services under an approved State Medicaid plan be consistent with efficiency, economy, and quality of care. This provision provides authority for specific upper payment limits (UPL) set forth in Federal regulations in 42 CFR part 447 relating to different types of Medicaid covered services. With respect to inpatient hospital services, nursing facility (NF) services and intermediate care facility services for the mentally retarded (ICF/MR), upper payment limits are set forth in regulations at § 447.272, ''Application of upper payment limits.'' This provision limits overall aggregate State payments and aggregate payments to State-operated providers. With respect to outpatient hospital services and clinic services, upper payment limits are set forth in regulations at § 447.321, ''Outpatient hospital services and clinic services: Upper limits of payment.''

These regulations stipulate that aggregate State payments for services provided by each group of health care facilities, that is, inpatient hospital and outpatient hospital services, NF services, ICF/MR services, and clinic services may not exceed a reasonable estimate of the amount the State would have paid under Medicare payment principles. Under §§ 447.257, ''FFP: Conditions relating to institutional reimbursement,'' and 447.304, ''Adherence to upper limits; FFP, paragraph (c),'' FFP is not available for State expenditures that exceed the applicable upper payment limit.

The statute also permits States some flexibility to use local government resources. Under section 1902(a)(2) of the Act, States may fund up to 60 percent of the non-Federal share of Medicaid expenditures with local government funds. Section 1903(w)(6) of the Act specifically limits the Secretary's ability to place restrictions on a State's use of certain funds transferred to it from a local unit of government subject to the requirements in section 1902(a)(2) of the Act.

II. Background

Before 1981, States were required to pay rates for hospital and long term care services that were directly related to cost reimbursement. To obtain approval from HCFA, many States set rates using Medicare reasonable cost payment principles.

In 1980 and 1981, the Congress enacted legislation, at section 962 of the Omnibus Reconciliation Act of 1980 (OBRA '80), Pub. L. 96–499 and section

2173 of the Omnibus Budget Reconciliation Act of 1981 (OBRA '81), Pub. L. 97–35, collectively known as the ''Boren Amendment'' that amended section 1902(a)(13) of the Act to give States flexibility to deviate from Medicare's cost payment principles in setting payment rates for hospital and long term care services.

The Boren Amendment was primarily considered a floor on State spending because it required States to set rates that would meet the costs incurred by efficiently and economically operated facilities. However, the Boren Amendment also supported upper payment limits on overall rates. In legislative history, the Congress directed the Secretary to maintain ceiling requirements that limited State payments in the aggregate from exceeding Medicare payment levels. The Senate Finance Committee report on the legislation states that ''the Secretary would be expected to continue to apply current regulations that require that payments made under State plans do not exceed amounts that would be determined under Medicare principles of reimbursement.'' S. Rep. No. 96–471, 96 Cong., 1st Sess. 1979.

In 1986, the Congress affirmed the use of upper limits on payments for inpatient hospital services, NF services and intermediate care facility (ICF) (now ICF/MR) services. Section 9433 of the Omnibus Budget Reconciliation Act of 1986 (Pub. L. 99–509) titled ''A Clarification of State Flexibility for State Medicaid Payment Systems for Inpatient Services'' precluded the Secretary from placing limits on State disproportionate share hospital (DSH) payments but maintained the application of limits on regular inpatient payment rates.

The current upper limits were last changed in a final rule in the **Federal Register** (52 FR 28141) on July 28, 1987 that addressed the application of the upper payment limit to States that had multiple payment rates for the same class of services. This rule addressed the differential rate issue in the context of State-operated facilities because several audits had revealed that the circumstances of State-operated facilities resulted in a lack of incentives to curb excessive payments. A high volume of uninsured patients will increase the costs of providing services in State-owned or operated facilities. These costs, in turn, are passed on to the State. To offset those higher costs, States established payment methodologies which paid State-owned or operated facilities at a higher rate than privately-operated facilities. Higher Medicaid payments to State-owned or operated facilities allowed States to obtain additional Federal Medicaid dollars to cover costs formerly met entirely by State dollars. To ensure payments to State-operated facilities would be consistent with efficiency and economy, the final rule applied the Medicare upper limit test to State-operated facilities separate from other facilities. However, the final rule did not create a separate upper payment limit for other government facilities, allowing their payments to count toward the same aggregate upper payment limit as private facilities.

Section 4711 of the Balanced Budget Act of 1997 (BBA)(Pub. L. 105–33) amended section 1902(a)(13) of the Act to increase State flexibility in rate setting by replacing the substantive requirements of the Boren amendment with a new public process. Under section 4711 of the BBA, States have flexibility to target rate increases to particular types of facilities so long as the rates are established in accordance with the new public process requirements.

III. Provisions of the Proposed Regulations

A. Description of the Problem

It has become apparent that the current regulation creates a financial incentive for States to overpay non-State-operated government facilities because States, counties, cities and/or public providers can, through this practice, lower current State or local spending and/or gain extra Federal matching payments. This practice is not consistent with Medicaid statute and has contributed to rapidly growing Medicaid spending.

The incentive and ability for States to pay excessive rates to non-State government-owned or operated Medicaid providers can be explained as follows. As stated previously, the current aggregate upper payment limit is applied to both private and non-State government-owned or operated facilities. By developing a payment methodology that sets rates for proprietary and nonprofit facilities at lower levels, States can set rates for county or city facilities at substantially higher levels and still comply with the current aggregate upper payment limit. The Federal government matches these higher payment rates to public facilities. Because these facilities are public entities, funds to cover the State share may be transferred from those facilities (or the local government units that operate them) to the State, thus generating increased Federal funding with no net increase in State expenditures. This is not consistent with the intent of statutory requirements that Medicaid payments be economical and efficient.

On July 26, 2000, the Director of the Center for Medicaid and State Operations sent a letter to all State Medicaid Directors notifying them that ''the Administration is developing a proposal to ensure that Medicaid payments meet the statutory definition of efficiency and economy'' and that we would issue a proposed rule to address this problem. The Office of the Inspector General (OIG) and the General Accounting Office (GAO) have begun to monitor States with State plans that permit these types of payments. Both the GAO and OIG testified on the scope of the financing practices, their impact on State and Federal spending, and on the resultant uses of increased Federal funds. Preliminary results of OIG's work to date are described below.

To date, the OIG has substantially completed reviews in three States and is continuing reviews in three additional States. Although the specifics of the enhanced payment programs and associated financing mechanisms differed somewhat in the three States they have reviewed thus far, they have found that the payment programs share some common characteristics. These similarities are included below:

- The States did not base the enhanced payments on the actual cost of providing services or increasing the quality of care to the Medicaid residents of the targeted nursing facilities.
- The counties involved in the enhanced payment process used little or none of the enhanced payments to provide services to Medicaid residents. Instead, the counties returned these funds to their original source. That is, the funds were returned to the State's general funds or used to repay loans that were made to initiate the transaction, or both.
- The States were clear winners in that they were able to reduce their share of Medicaid costs and cause the Federal government to pay significantly more than it should for the same volume and level of Medicaid services. The Federal share of the enhanced funding went into State accounts and, in some cases, could be used for any purpose.
- Some States effectively recycled the Federal funds received from these enhanced payments to generate additional Federal matching funds.

Similarly, the GAO testified that current arrangements violate the basic integrity of Medicaid as a joint Federal/State program. By taking advantage of a technicality, these financing schemes allow States, in effect, to replace State

Medicaid dollars with Federal Medicaid dollars.

B. Application of the Upper Payment Limit

To address these problems, we are proposing to revise the regulations at §§ 447.272, ''Application of upper payment limits,'' and 447.321, ''Outpatient hospital services and clinic services: Upper limits of payment,'' to establish separate upper payment limits for non-State government-owned or operated facilities. This approach is consistent with the last regulatory change which created separate upper payment limits for State-operated facilities. While the proposal would still allow for flexibility in payment methodologies, it prevents States from setting rates to public facilities well in excess of the average upper payment limit and the actual cost of providing Medicaid covered services to eligible individuals. This change is necessary to ensure that the Medicaid regulations conform to Medicaid statutory requirements that promote efficiency and economy.

The upper payment limit requirements for Medicaid inpatient hospital services, NF services and ICF/MR services are set forth in regulations at § 447.272. Paragraph (a) of this section provides that aggregate payments by an agency to each group of health care facilities (that is, hospitals, nursing facilities and ICFs for the mentally retarded (ICFs/MR)), may not exceed a reasonable estimate of what would have been paid for those services under Medicare payment principles. Paragraph (a) provides an exception to specify that disproportionate share hospital payments are not counted toward the general limit. We would amend paragraph (a) to specify that an exception also applies for payments made to non-State-owned or operated public hospitals under paragraph (b)(2) of this section.

Paragraph (b) of this section currently limits aggregate payment to State-operated facilities in each class of service. We would revise § 447.272(b) to establish an additional upper payment limit that would apply to payments made to all other types of government facilities. To establish this new upper payment limit, we propose to make the following changes to § 447.272(b).

Specifically, we propose to revise paragraph (b) of this section to specify that payments made to each type of government-owned or operated health care facility (that is, inpatient hospital, NF, ICF/MR) may not exceed the specified allowable limits. Proposed paragraph (b)(1) would continue the limitation on aggregate payments made to State-owned or operated facilities from exceeding a reasonable estimate of what would have been paid using Medicare payment principles. In addition, we propose to add a new paragraph (b)(2) that would impose an aggregate upper limit restriction on payments for services furnished by all other government-owned or operated facilities (other than Indian Health Service (IHS) facilities and tribal facilities funded through Pub. L. 93–638) that are not State-owned or operated. (Although we invite specific comments, we excluded IHS facilities because we believe there is little incentive for States to pay enhanced rates to these facilities. Rates to these facilities are generally set by the State in accordance with rates published by the Federal government.) Under paragraph (b)(2), we would specify that aggregate payments to NFs IFCs/MR may not exceed a reasonable estimate of what would have been paid for those services under Medicare payment principles. We would also specify that aggregate payment to non-State-owned or operated public hospitals may not exceed 150 percent of a reasonable estimate of what would have been paid for those services under Medicare payment principles.

We are proposing a higher upper payment limit for services in non-State-owned or operated public hospitals operated by governmental entities other than the State itself because we believe that allowing higher Medicaid payments will fully reflect the value of public hospitals' services to Medicaid and the populations it serves. Public hospitals are established to ensure access to needed care in underserved areas, and often provide a range of care not readily available in the community, including expensive specialized services, such as trauma and burn care and outpatient tuberculosis services. They also provide a significant proportion of the uncompensated care in the nation.

The size and scale of public hospitals create extreme stresses and uncertainties, especially given their dependence on public funding sources. We are concerned that these stresses may threaten the ability of these public hospitals to fulfill their mission and fully serve the Medicaid population. As such, we are proposing a higher UPL for these facilities. Specifically, this higher aggregate UPL would allow States to pay non-State-owned or operated public hospitals up to 150 percent of the amount that would have been paid for inpatient and outpatient services using Medicare payment principles.

We also recognize that, in some instances, these public hospitals may be required by State or local governments to transfer back a portion of payments that they receive under Medicaid. This practice raises serious concerns about whether the purposes of the higher payment limits being proposed for public hospitals will be met. To ensure that higher payment levels will assist in ensuring the stability of public hospitals as a vital link in the resources available for care to Medicaid beneficiaries, we intend to require in our final rule that payments made to public hospitals under this provision be separately identified and reported to HCFA. We request comment on the most suitable ways of reporting and accounting for these payments. In addition, we are soliciting comments on whether the 150 percent limit is appropriate.

For outpatient hospital services and clinic services, the current upper payment limit is in regulations at § 447.321. This limit precludes FFP on aggregate payments for outpatient hospital services and clinic services that exceed the amount that would be payable to all providers (State-owned or operated, other government-owned or operated, and private) under comparable circumstances under Medicare. Unlike other classes of services subject to the upper payment limit, there is no separate limit for State-owned or operated facilities. We propose to amend § 447.321 to establish additional upper payment limits that would apply to aggregate payments for Medicaid services furnished by State-owned or operated and all other government-owned or operated facilities.

We propose to move the current provisions under paragraph (a) of this section, as discussed below, to § 447.304 and add a new paragraph (a) to conform the language in this section to the language in § 447.272, for purposes of consistency within the Medicaid regulations. We would provide in § 447.321(a) that aggregate payments by an agency to each group of health care facilities (that is, outpatient hospitals and clinics) may not exceed a reasonable estimate of what would have been paid for each of those services under Medicare payment principles. We would also specify that an exception applies for payments made to non-State-owned or operated public hospitals under paragraph (b)(2) of this section. Consistent with the changes to § 447.272, we propose to establish separate upper payment limits for Medicaid services furnished by—(1) State-owned or operated facilities; and (2) all other government-owned or

operated facilities that are not State-owned or operated. In § 447.321, proposed paragraph (b)(1) would establish the upper payment limit for Medicaid services furnished by State-owned or operated facilities. Like the current UPL for inpatient hospital services, aggregate Medicaid payments for outpatient services or clinic services furnished by State facilities would be limited to a reasonable estimate of what would have been paid under Medicare reimbursement principles.

Proposed paragraph (b)(2) would establish a similar aggregate upper limit restriction for Medicaid services furnished by all other government providers that are not State-owned or operated except that the payment maximum for outpatient services would be set at 150 percent of what would have been paid using Medicare payment principles. See the earlier discussion of our rationale for the higher limit to these public hospitals. Under the proposed limits in §§ 447.272 and 447.321, States would have flexibility to consider either Medicare principles of reasonable cost reimbursement or a Medicare prospective payment system if available, to estimate the Medicare payment amount for Medicaid services.

In addition, we are moving the language regarding prohibition for FFP currently found in § 447.321(a) to § 447.304, ''Adherence to upper limits; FFP,'' paragraph (c). The provision in § 447.304(c) currently specifies that FFP is available for State expenditures that do not exceed upper limits. We propose to revise this section to specify that FFP is not available for payment that exceeds the upper limits specified in subpart F. This revision would conform to our approach in § 447.257.

C. Transition Periods for States That Have Approved Rate Enhancement Payment Arrangements

We recognize that the new upper payment limits we are proposing may disrupt State budget arrangements for States with approved enhanced plan amendments. Therefore, we are proposing a transition policy for States with approved rate enhancement amendments that would be affected by the proposed UPLs. We refer to these amendments as noncompliant because they result in payments that exceed the maximum amount allowable under the new UPLs. We are proposing two transition periods and are soliciting comments on the material elements of these transition periods, including the starting point for the phase-out, the percentage reduction each year, and whether a longer or shorter period would be appropriate.

1. Transition period for noncompliant approved State plan amendments effective on or after October 1, 1999.

For noncompliant approved State plan amendments with an effective date on or after October 1,1999, we are proposing a transition period that would end on September 30, 2002. Because these programs are relatively new (in fact, some may be deemed approved during the comment period for this proposed rule), States are not likely to have developed the same level of reliance on the enhanced payments addressed in this proposed rule as States with older programs. Additionally, during the review period for these amendments, we have been informing States of our intent to curtail this practice and advising them not to rely on the continuation of this funding. For these reasons, we believe a short transition period is appropriate.

2. Transition period for noncompliant approved State plan amendments effective before October 1, 1999.

For noncompliant approved State plan amendments with an effective date before October 1, 1999, we are proposing a 3-year transition period beginning in the State FY that begins calendar year 2002.

We propose to implement the reductions on a State Fiscal Year (FY) basis starting with the first full State FY that begins in calendar year 2002. Specifically, the transition generally consists of reducing aggregate payments with the proposed classes to the proposed UPLs in increments, with the proposed UPL becoming fully effective in the first State FY beginning in Calendar Year 2005. In the first year of implementation, States would have to reduce the aggregate payments above the new UPL by 25 percent. In the second year, the amount of excess aggregate payments must be reduced by 50 percent and in the third year by 75 percent. By the first day of the fourth year, State payments would have to be in compliance with the new UPL policy.

We are proposing to use State FY 2000 as the base period to determine the excess payment that must be phased down. To compute the dollar amount of the excess, States would be required to compare State FY 2000 payments paid to the current class of providers to the maximum aggregate payments for its new class of providers (that is, State-owned or operated and other government-owned or operated) under the proposed UPL for State FY 2000. The difference is considered the excess payment that must be phased out over the transition period.

The table below illustrates the transition policy. In this example, State FY 2000 payments for nursing facility services provided by other government-owned or operated providers are $300 million and new UPL is $100 million. The amount in excess of the upper payment limit, $200 million, must be reduced in successive State FYs by 25 percent, 50 percent and 75 percent respectively. The steps to calculate the maximum allowable payment during this transition period are as follows:

- Subtract the amount that would have been allowed under the new UPL for State FY 2000 services from the State FY 2000 payment.
- Multiply that difference by the phase down rate.
- Add to that result, the new UPL for Medicaid services furnished on or after State FY 2000.

At the end of the transition period, State payments would have to be in full compliance with the new upper payment limit.

TABLE—ILLUSTRATIVE EXAMPLE OF TRANSITION [1] OTHER GOVERNMENT-OWNED OR OPERATED NURSING HOME PROVIDERS

[Dollars in millions]

	SFY 2003*	SFY 2004	SFY 2005	SFY 2006
Excess Payment in SFY 2000 [2]	200	200	200	200
Phase-out rate (in percent)	25%	50%	75%	100%
Maximum allowable excess	150	100	50	0
New UPL [3]	105	110	115	120
Transition UPL	255	210	165	120

* Assumes that the SFY 2003 begins on July 1, 2002.

[1] State FY 2001 and State FY 2002 payments would not be subject to this proposed rule because it assumes that the transition period begins in State FY 2003.

[2] The $200 million excess payment is derived by subtracting the new aggregate UPL for State FY 2000 services provided by other government-owned or operated providers from the actual FY 2000 payment made to these providers.

[3] Assumes $5 million annual growth in the program.

To implement these provisions, we propose to make further revisions to §§ 447.272 and 447.321 to include regulations that establish transition periods for States that will be affected by the new upper payment limits that we are proposing.

Specifically, § 447.272 sets forth the rules regarding the application of the upper payment limit requirements for Medicaid inpatient hospital services, NF services and ICF/MR services. We propose to revise § 447.272(b) to establish a shorter-term transition period and a 3-year transition period. Specifically, proposed paragraph (b)(2)(i) of this section would specify that noncompliant State plan amendments effective on or after October 1, 1999 and approved before the effective date of the final rule have until September 30, 2002 to come into compliance with the requirements of the new upper payment limits. Proposed paragraph (b)(2)(ii) of this section would specify that noncompliant approved State plan amendments effective before October 1, 1999 are allowed a 3-year transition period beginning in the State FY that begins in calendar year 2002. Paragraph (b)(2) of this section refers to payments made to those other government-owned or operated facilities that are not State-owned or operated.

Section 447.321 sets forth rules regarding the application of the upper payment limit requirements for Medicaid outpatient hospital services and clinic services. We are proposing similar revisions to § 447.321(b) to include our proposed transition periods. We apply these transition periods to States for payments made to State-owned or operated facilities and other government-owned or operated facilities described in proposed paragraphs (b)(1) and (b)(2) of this section. Specifically, proposed paragraphs (b)(1)(i) and (b)(1)(ii) of this section would specify the requirements for the short-term and the 3-year transition periods for State-owned or operated facilities. Proposed paragraphs (b)(2)(i) and (b)(2)(ii) of this section would set forth the short-term and the 3-year transition periods for all other government-owned or operated facilities.

To the extent this regulation alters allowable Medicaid expenditures in a State with a section 1115 title XIX waiver, the estimates of the expected cost to the Federal government without the waiver will be adjusted (upward or downward) to accurately reflect these changes in allowable Medicaid expenditures. These adjustments are consistent with current section 1115 waiver budget neutrality policy.

IV. Response to Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, if we proceed with a subsequent document, we will respond to the major comments in the preamble to that document.

V. Regulatory Impact Analysis

A. Introduction

We have examined the impact of this rule as required by Executive Order (EO) 12866, the Unfunded Mandates Act of 1995, and the Regulatory Flexibility Act (RFA) (Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any one year).

B. Overall Impact

We are unable to provide a specific dollar estimate of the economic impact this proposed regulation will have on State and local governments and Medicaid participating health care facilities due to data limitations and State behavioral responses. This proposed regulation does not reduce the overall aggregate amount States can spend on Medicaid services or place a fixed ceiling on the amount of State spending that will be eligible for Federal matching dollars. Under the proposed limitations, States will be able to set reasonable rates as determined under Medicare payment principles for Medicaid services furnished by public providers to eligible individuals. The amount of spending permitted under the proposed limits will vary directly with the amount of Medicaid services furnished by public providers to eligible individuals. While the proposed regulation does not affect the overall aggregate amount States can spend, by setting an upper payment limit for government providers, it may impact how States distribute available funding to participating health care facilities.

We have identified 28 States with approved and/or pending rate proposals that target enhanced Medicaid payments to hospital and nursing service providers that are owned or operated by county or local governments. There are 17 States with approved State plan amendments or waivers and 7 States with pending plan amendments. In addition, there are 4 States that have both approved and pending plan amendments. We estimate that these proposals currently account for approximately $3.7 billion in Federal spending annually. This estimate is based on State reported Federal fiscal information submitted with State plan amendments and State expenditure

information where available. It may be understated or overstated to the degree that actual State expenditures would vary from the estimates included with State plan submissions. For example, a State could include a provision in its State Medicaid plan that would enable it to spend up to allowable amounts by making additional payments to designated providers. Under this scenario, if the upper payment limitation permitted the State to spend an additional $200 million, the actual annual expenditure could vary from zero to $200 million depending upon the State's willingness to finance its share of the payment. In the final rule, we may revise our estimate of $3.7 billion in Federal spending to reflect findings reported by the OIG and the GAO.

Of this $3.7 billion in spending, we do not have sufficient information to permit us to quantify accurately the amount of payments to State and local government providers that may exceed the proposed upper payment limits. In addition, because some States may be using the Federal share of enhanced payments in a manner that allows some funds to be re-invested in Medicaid (and thereby drawing down additional FFP), the potential impact may extend to other Medicaid services not reflected in the above spending. Because we believe that the potential impact will exceed $100 million, we consider this proposed rule to be a major rule.

We are seeking information to help us quantify the impact of this proposed rule. We invite comments on how the proposed rule may affect State Medicaid programs and other State programs. In particular, we seek information to help us quantify the fiscal impact of this proposed rule (also taking into account the proposed transition periods and higher UPLs for non-State-owned or operated public hospitals) on State Medicaid programs and other State programs.

C. Impact on Small Entities and Rural Hospitals

The Regulatory Flexibility Act requires agencies to analyze options for regulatory relief of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations and government agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $5 million or less annually. For purposes of the RFA, all hospitals, nursing facilities, intermediate care facilities for the mentally retarded, and clinics are considered to be small entities. Individuals and States are not included in the definition of a small entity.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

The chart below indicates the type and number of providers potentially affected by this regulation in all 50 States and the District of Columbia. We included facilities in all 50 States because although every State is not currently making enhanced payments to government non-State-owned or operated facilities, this rule will prevent new proposals from all States in the future. We do not believe any States have payment arrangements with providers of ICF/MR services or clinic services that will be affected by this regulation and therefore we did not include those providers in the chart below.

POTENTIALLY AFFECTED PROVIDERS BY NUMBER AND TYPE

Provider type	Government state-owned or operated	Government non-state-owned or operated	Total
Nursing Facilities	[1] N/A	892	892
Hospitals	254	1,275	1,529

[1] These facilities are already subject to a separate aggregate UPL and will not be affected by the final rule.

As explained earlier in the preamble, it is very difficult to predict how States will respond to the proposed rule and consequently how State decisions will impact Medicaid providers. Each State makes its own budgetary and rate setting decisions. Since we do not collect information about the specific services that providers use Medicaid payments to support, we cannot determine how potential payment rate adjustments will affect providers or the patients they serve. Under the proposed UPLs, States would continue to be able to set rates that provide fair compensation for Medicaid services furnished to Medicaid patients. Hospitals that are owned or operated by local governments may benefit from the higher UPLs we are proposing for inpatient and outpatient services. Additionally, if these hospitals furnish services to indigent patients, they may qualify as a DSH and qualify for funding under a State's program. With respect to small entities that are not government-owned or operated, the proposed UPLs do not apply to them and therefore, they should not be impacted.

With respect to the impact on small rural hospitals, we do not believe the proposed rule will have a significant overall impact on rural hospitals. With respect to Medicaid services furnished by rural hospitals, the proposed upper payment limits do not interfere with States setting rates that result in fair compensation. Additionally, rural hospitals that are owned or operated by local governments should be able to benefit from the higher UPLs we are proposing for inpatient and outpatient hospital services. Finally, if a rural hospital provides services to indigent patients, they may qualify as a DSH and qualify for funding under a State's DSH payment program.

We invite public comment on the possible effects this proposed rule may have on small entities in general and on small rural hospitals in particular.

D. Alternatives Considered

Section 1902(a)(30) of the Act requires in part that Medicaid service payments be consistent with efficiency and economy. In addition to the interpretation we are proposing in this proposed rule, we considered several other alternatives to ensure Medicaid service payments are consistent with economy and efficiency. In this section, we will explain these other alternatives and why we did not select them.

1. Facility-Specific Upper Payment Limit. Under this option, Medicaid spending would be limited on a provider-specific application of Medicare payment principles. FFP

would not be available on the amount of Medicaid service payment in excess of what a provider would have been paid using Medicare payment principles.

These limits would be applied to all institutions, or just to public institutions where the incentives for over-payment are significant. While a facility-specific limitation may be the most effective method to ensure State service payments are consistent with economy and efficiency, when balanced against the additional administrative requirements on States and the congressional intent for States to have flexibility in rate setting, we are not sure that the increased amount of cost efficiency, if any, justifies this approach as a viable option.

2. Government-owned or Operated Upper Payment Limit. This proposal would limit, in the aggregate, the amount of payment States can make to public providers. Under this proposal, State and local government providers would be grouped together and payments to them as a group could not exceed an aggregate limit. The aggregate limit would continue to be based on Medicare payment principles. This option, relative to upper payment limitations we are proposing, would have allowed States to exercise more flexibility granted to them in the rate setting process. While this option permits more flexibility, we believe the aggregation of Medicaid service payments by all types of government providers would have the unintended consequence of reopening differential rate issues between State facilities and other types of government facilities.

3. Intergovernmental Transfers (IGTs). Because in many cases we believe there is a connection between excessive payments and IGTs, we gave consideration to formulating policy with respect to them. Generally, States have genuine incentive to set Medicaid service rates at levels consistent with economy and efficiency since they share the financial burden with the Federal government. As explained in section III of the preamble, the use of IGTs to move funds between government entities makes it possible to generate enhanced Federal matching payment. However, we did not pursue this alternative because we recognize that States, counties, and cities have developed their own unique arrangements for sharing in Medicaid costs. Furthermore, there are statutory limitations placed on the Secretary which limit the authority to place restrictions on IGTs.

4. ''Grandfathering'' existing arrangement. Under this proposal, we would not approve any new plan amendments after the effective date of the final rule. This would permit States that are currently making excessive payments to local government facilities to continue making such payments indefinitely. Allowing some States to permanently continue making excessive payments solely because they were approved before this rule is published and effective appears to be arbitrary, capricious, and inconsistent with our administrative authority.

We invite comment on these alternatives we considered and on other possible approaches for achieving our objective to ensure Medicaid service payments are consistent with efficiency and economy. We specifically invite comment on alternative means of setting the maximum amount that may be paid to public hospitals that have traditionally provided ''safety-net'' care and services to underserved communities and individuals who are uninsured. We request information regarding the mechanisms used to finance these hospitals under current regulations, as well as proposals for a means of curbing excessive payments while allowing States the flexibility to recognize higher costs faced by these hospitals.

E. The Unfunded Mandates Act

The Unfunded Mandates Reform Act of 1995 also requires (in section 202) that agencies perform an assessment of anticipated costs and benefits before proposing any rule that may result in a mandated expenditure in any one year by State, local, or Tribal governments, in the aggregate, or by the private sector, of $100 million. Absent FFP, we do not believe States will continue to set excessive payment rates for Medicaid services furnished by government providers. Generally, discontinuing an expenditure should not result in new costs, unless the State has to fund the portion of the expenditure that is no longer Federally funded with all State and local dollars. There are no Federal requirements under the Medicaid statute that mandate States to make these type of payments to Medicaid public providers and therefore we do not believe the proposed limits have any unfunded mandate implications.

F. Federalism

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct compliance costs on State and local governments, preempts State law, or otherwise has Federalism implications.

In developing the interpretative policies set forth in this proposed rule, we met with interested parties and listened to their ideas and concerns. These discussions were held with members of Congress and their staff. We also met with various associations representing State and local governments including the National Governors' Association, the National Conference of State Legislatures, and the National Association of State Medicaid Directors. In addition, we met with many hospital associations, advocacy groups, labor organizations, and numerous other interested parties. We do not believe this proposed rule in any way imposes substantial direct compliance costs on State and local governments or preempts or supersedes State or local law.

The financial implications of this proposed rule are highly uncertain for the reasons we have previously indicated. We anticipate that many State Medicaid programs will be unaffected by the upper payment limits we are proposing. With respect to affected States, to some degree we will be limiting flexibility in the management of their Medicaid programs. If these States wish to continue to make payments in excess of the proposed limits, they will have to fund the amount in excess with only State and local resources. In the absence of FFP, we anticipate States will reinvest these resources to support other Medicaid activities to take advantage of and maintain Federal resources. Should States realign their payment systems or divert State matching dollars to support other Medicaid activities, the total amount of available Federal funds should remain unchanged.

G. Executive Order 12866

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

List of Subjects in 42 CFR Part 447

Accounting, Administrative practice and procedure, Drugs, Grant programs—health, Health facilities, Health professions, Medicaid, Reporting and recordkeeping requirements, Rural areas.

For the reasons set forth in the preamble, 42 CFR part 447 is proposed to be amended as follows:

PART 447—PAYMENTS FOR SERVICES

1. The authority citation for part 447 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. In § 447.272 revise paragraphs (a) and (b) to read as follows:

§ 447.272 Application of upper payment limits.

(a) *General rule.* Except as provided in paragraphs (b)(2) and (c) of this section, aggregate payments by an agency to each group of health care facilities (that is, hospitals, nursing facilities and ICFs for the mentally retarded (ICFs/MR)), may not exceed a reasonable estimate of what would have been paid for those services under Medicare payment principles.

(b) *Government-owned or operated facilities.* In addition to being subject to the requirements in paragraph (a) of this section, payments by an agency to each group of government-owned or operated health care facilities (that is, hospitals, nursing facilities and ICFs for the mentally retarded (ICFs/MR)), may not exceed the limits specified in paragraph (b)(1) or (b)(2) of this section.

(1) *State-owned or operated facilities.* Aggregate payments to State-owned or operated facilities may not exceed a reasonable estimate of what would have been paid for those services under Medicare payment principles.

(2) *Other government-owned or operated facilities.* Except for public hospitals, aggregate payments to all other government-owned or operated facilities (other than Indian Health Services facilities (IHS) and tribal facilities funded through Pub. L. 93–638) may not exceed a reasonable estimate of what would have been paid for those services under Medicare payment principles. Payment to non-State-owned or operated public hospitals may not exceed 150 percent of a reasonable estimate of what would have been paid for those services under Medicare payment principles, except as provided below.

(i) *Transition period for noncompliant State plan amendments effective on or after October 1, 1999 and approved before the effective date of the final rule.* Enhanced payment arrangements with an effective date on or after October 1, 1999 and approved before the effective date of the final rule must come into compliance by September 30, 2002.

(ii) *Transition period for noncompliant approved State plan amendments effective before October 1, 1999.* A 3-year transition period applies to approved State payment arrangements with an effective date before October 1, 1999. During the 3 successive State fiscal years beginning in State FY 2003, State payments must comply with the excessive payment phase down payment reduction schedule.

(iii) State payments may not exceed the lower of the base State FY 2000 payments or the following limits:

State FY 2003 UPL + .75x
State FY 2004 UPL + .50x
State FY 2005 UPL + .25x
UPL = Upper Payment Limit.
X = Payments to local government providers less the UPL described in § 447.272(b)(2) for services furnished in State FY 2000.

3. In § 447.304, revise paragraph (c) and remove the note to read as follows:

§ 447.304 Adherence to upper limits; FFP.

* * * * *

(c) FFP is not available for a State's expenditures for services that are in excess of the amounts allowable under this subpart.

4. Section 447.321 is revised to read as follows:

§ 447.321 Outpatient hospital services or clinic services: Application of upper payment limits.

(a) *General rule.* Except as provided in paragraph (b)(2) of this section, aggregate payments by an agency to each group of health care facilities, (that is, outpatient hospitals or clinics) may not exceed a reasonable estimate of what would have been paid for each of those services under Medicare payment principles.

(b) *Government-owned or operated facilities.* In addition to being subject to the requirements in paragraph (a) of this section, payments by an agency to each group of government-owned or operated health care facilities, (that is, outpatient hospitals or clinics) may not exceed the limits specified in paragraph (b)(1) or (b)(2) of this section.

(1) *State-owned or operated facilities.* Aggregate payments to State-owned or operated facilities may not exceed a reasonable estimate of what would have been paid for those services under Medicare payment principles, except as provided below.

(i) *Transition period for noncompliant State plan amendments effective on or after October 1, 1999 and approved before the effective date of the final rule.* Enhanced payment arrangements with an effective date on or after October 1, 1999 and approved before the effective date of the final rule must come into compliance by September 30, 2002.

(ii) *Three-year phase down transition period for noncompliant approved State plan amendments effective before October 1, 1999.* A 3-year transition period applies to approved State payment arrangements with an effective date before October 1, 1999. During the 3 successive State fiscal years beginning in State FY 2003, State payments must comply with the excessive payment phase down payment reduction schedule.

(iii) State payments may not exceed the lower of the base State FY 2000 payments or the following limits:

State FY 2003 UPL + .75X
State FY 2004 UPL + .50x
State FY 2005 UPL + .25x
State FY 2006 UPL
UPL = Upper Payment Limit
X = Payments to local government providers and State-owned or operated providers less the applicable UPL described in § 447.321(b) for services furnished in State FY 2000.

(2) *Other government-owned or operated facilities.* Except for public hospitals, aggregate payments to all other government-owned or operated facilities (other than Indian Health Services facilities (IHS) and tribal facilities funded through Pub. L. 93–638) may not exceed a reasonable estimate of what would have been paid for those services under Medicare payment principles. Payment to non-State-owned or operated public hospitals may not exceed 150 percent of a reasonable estimate of what would have been paid for those services under Medicare payment principles, except as provided below.

(i) *Transition period for noncompliant State plan amendments effective on or after October 1, 1999 and approved before the effective date of the final rule.* Enhanced payment arrangements with an effective date on or after October 1, 1999 and approved before the effective date of the final rule must come into compliance by September 30, 2002.

(ii) *Three-year phase down transition period for noncompliant approved State plan amendments effective before October 1, 1999.* A 3-year transition period applies to approved State payment arrangements with an effective date before October 1, 1999. During the 3 successive State fiscal years beginning in State FY 2003, State payments must comply with the excessive payment phase down payment reduction schedule.

(iii) State payments may not exceed the lower of the base State FY 2000 payments or the following limits:

State FY 2003 UPL + .75X
State FY 2004 UPL + .50x
State FY 2005 UPL + .25x
State FY 2006 UPL
UPL = Upper Payment Limit
X = Payments to local government providers and State-owned or operated providers less the UPL described in § 447.321(b)(1) for services furnished in State FY 2000.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: October 3, 2000.

Michael M. Hash,

Acting, Administrator, Health Care Financing Administration.

Approved: October 4, 2000.

Donna E. Shalala,

Secretary.

[FR Doc. 00–25935 Filed 10–5–00; 1:00 pm]

BILLING CODE 4120–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

RIN 3067–AD13

National Flood Insurance Program (NFIP); Letter of Map Revision Based on Fill Requests

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: We, FEMA, propose to amend our procedures for issuing Letters of Map Revision Based on Fill (also referred to as LOMR–F) under the criteria of 44 CFR 65. We use the criteria established in § 65.5 to determine whether we can issue a LOMR–F to remove unimproved land or land with structures from the Special Flood Hazard Area (SFHA) by raising ground elevations using engineered earthen fill.

DATES: We invite your comments on this proposed rule. Please send any comments on or before November 9, 2000.

ADDRESSES: Please send written comments to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street, SW., room 840, Washington, DC 20472, (facsimile) 202–646–4536, or (email) *rules@fema.gov.*

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Technical Services Division, Mitigation Directorate, at (202) 646–3461, or (email) *matt.miller@fema.gov.*

SUPPLEMENTARY INFORMATION:

Background

Congress created the National Flood Insurance Program (NFIP) in 1968 to provide federally supported flood insurance coverage, which generally had not been available through private insurance companies. The program is based on an agreement between the Federal Government and each community that chooses to participate in the program. We make flood insurance available to property owners within a community provided that the community adopts and enforces floodplain management regulations that meet or exceed the minimum requirements of the NFIP set forth in part 60 of the NFIP Floodplain Management Regulations (44 CFR 60).

Identifying and mapping flood hazards. FEMA identifies and maps flood hazard areas by conducting flood hazard studies and publishing Flood Insurance Rate Maps (FIRMs). These flood hazard areas, referred to as Special Flood Hazard Areas (SFHAs), are based on a flood that would have a 1-percent chance of being equaled or exceeded in any given year (the 100-year flood or base flood). We determine the 1-percent annual chance flood, shown on the FIRMs as A Zones or V Zones, from information that we obtain through consultation with the community, floodplain topographic surveys, and detailed hydrologic and hydraulic analyses.

Floodplain management requirements. The NFIP minimum building and development regulations require that new or substantially improved buildings in A Zones have their lowest floor (including basement) elevated to or above the Base Flood Elevation (BFE) (the elevation of the 1-percent annual chance flood). Non-residential buildings in A Zones can either be dry floodproofed or elevated to the BFE. In V Zones, the bottom of the lowest horizontal structural member of the lowest floor of all new or substantially improved buildings must be elevated to or above the BFE. We have designed the NFIP floodplain management requirements at 44 CFR 60.3 to protect buildings constructed in floodplains from flood damages.

Freeboard and Floodplain Storage. Freeboard, generally expressed in terms of feet above a flood level for purposes of floodplain management, proves to be a successful method for reducing damage due to flooding and acts to compensate for the many uncertain factors that contribute to flood heights greater than the base flood. We recognize communities that incorporate the concept of freeboard in their permitting and planning processes through the Community Rating System, Project Impact, and insurance rating in general.

Local officials, developers, and the public at large should understand that the placement of fill in the SFHA could result in an increase in the base flood elevation by reducing the ability of the floodplain to convey and store floodwaters. Communities may want to consider prohibiting or limiting fill in floodplains, or requiring compensatory storage, and zero rise floodways as extra protection. Furthermore, development outside the SFHA but within the watershed can further increase the flood hazard by aggravating downstream flooding conditions. Therefore, FEMA will continue to encourage local officials, planners, design professionals, and developers to consider the long term benefits of elevating above the published base flood elevation when constructing projects in and near the SFHA.

Local responsibility. When a community joins the NFIP, it must initially adopt a resolution or ordinance that expresses a commitment to recognize and evaluate flood hazards in all official actions and to take such other official action as reasonably necessary to carry out the objectives of the program [44 CFR 59.22(a)(8)]. This is in addition to the general requirement that the community take into account flood hazards to the extent that they are known in all official actions relating to land management and use [44 CFR 60.1(c)]. Furthermore, all communities participating in the NFIP must ''determine whether proposed building sites will be reasonably safe from flooding'' [44 CFR 60.3(a)(3)]. This proposed rule emphasizes the role and responsibility of the community in permitting development and ensuring that areas within their jurisdiction are reasonably safe from flood hazards.

Flood insurance. The National Flood Insurance Act of 1968 requires that we charge full actuarial rates reflecting the complete flood risk to buildings built or substantially improved on or after the effective date of the initial FIRM for the community or after December 31, 1974, whichever is later, so that the risks associated with buildings in flood prone areas are borne by those located in such areas and not by the taxpayers at large. We refer to these buildings as Post-FIRM. The NFIP bases flood insurance rates for new construction on the degree of the flood risk reflected by the flood risk zone on the FIRM. Flood insurance rates also take into account a number of other factors including the elevation of the lowest floor above or below the BFE, type of building, and the existence of a basement or an enclosure.

Mandatory purchase of insurance. The Flood Disaster Protection Act of 1973 and the National Flood Insurance Reform Act of 1994 mandate the purchase of flood insurance as a condition of Federal or federally-related financial assistance for acquisition or construction of buildings in SFHAs of any community. The two Acts prohibit Federal agency lenders, such as the Small Business Administration, United

States Department of Agriculture's Rural Housing Service, and Government-Sponsored Enterprises for Housing (Freddie Mac and Fannie Mae) from making, guaranteeing, or purchasing a loan secured by improved real estate or mobile home(s) in an SFHA of a participating community, unless flood insurance has been purchased and maintained during the term of the loan. The Acts also prohibit federally-regulated lenders from making, extending, or renewing any loan secured by improved real estate located in the SFHA in a participating community unless the secured property and any personal property securing the loan is covered by flood insurance. Federal financial assistance may not be provided in the SFHAs of non-participating communities.

Need for Proposed Rule

We revise NFIP flood maps for a number of reasons, such as the availability of improved techniques for assessing the flood risk, changes in the physical condition of the floodplain or watershed, or as additional data become available to improve the identification of flood hazards. The requirements for revising the FIRMs are established in the NFIP Regulations at 44 CFR Part 65, Identification and Mapping of Special Hazard Areas. We can also revise a FIRM when property owners, whose land is in a SFHA and the elevation is below the BFE, request a map change as a result of grading and filling their site to raise the level of the land above the 1-percent annual chance flood level. The criteria for determining whether to remove unimproved land or land with structures from the SFHA by raising ground elevations using engineered earthen fill are established in section 65.5. If the criteria under section 65.5 are met, we will issue a Letter of Map Revision Based on Fill (also referred to as a LOMR–F).

Specifically, unimproved land (land without a structure) can be removed from the SFHA under 44 CFR 65.5(a)(3) if the ground elevations of the entire legally defined parcel of land are at or above the elevation of the base flood. Land that is removed under paragraph 65.5(a)(3) is no longer subject to the NFIP floodplain management requirements at 44 CFR 60.3, which includes the requirement that the lowest floor (including basement) be elevated to or above the BFE. In addition, future structures placed on this unimproved land would not be subject to the mandatory flood insurance purchase requirement of the NFIP.

When a structure is involved (see 64 FR 47813, September 1, 1999), we previously determined whether it could be removed from the SFHA under 44 CFR 65.5(a)(4) by comparing the elevation of the lowest floor (including basement) and the elevation of the lowest adjacent grade with the elevation of the base flood. If the entire structure and the lowest adjacent grade were at or above the elevation of the base flood, the structure was removed from the SFHA. Once we issue a LOMR–F, the NFIP floodplain management requirements at 44 CFR 60.3 and the mandatory flood insurance purchase requirement of the NFIP no longer apply. However, if the structure involved did not meet the lowest floor and lowest adjacent grade criteria, the structure was not removed from the SFHA, thus it remained subject to the NFIP floodplain management requirements and the mandatory flood insurance purchase requirement.

These regulations have caused confusion for State and local floodplain managers and permitting officials. This confusion stems from the fact that buildings constructed on fill in areas removed from the SFHA under paragraph 65.5(a)(3) are not required to have their lowest floor (including basement) elevated above the BFE. However, buildings constructed on fill in areas not previously removed from the SFHA under paragraph 65.5(a)(3) must have their lowest floors elevated to or above the base flood before they can be removed from the SFHA as outlined in paragraph 65.5(a)(4).

We are concerned that this confusion may lead to unwise construction near floodplains and that structures built on land removed from the SFHA under section 65.5(a)(3) may be subject to residual flood damages during the base flood. The risk to structures built in these areas will vary depending the soil conditions at the site, the location of the structure relative to the flooding source, and whether the structure has a basement below the BFE. Therefore, to eliminate this confusion, we propose to revise portions of 44 CFR 65.2, 65.5, and 65.6(a) to reinforce the existing requirements of 44 CFR 60.3 and to ensure land and structures removed from the SFHA based on fill are reasonably safe from flooding during the base flood.

Proposed Revised Procedures

We would process all LOMR–F requests received after the date of the final rule as follows (these procedures would apply to single and multi-lot LOMR–F requests, which may involve one structure or multiple structures):

- Paragraph 65.5(a)(3) would apply to requests to remove from the SFHA land that is elevated by placement of engineered fill, whether structures exist or not.
- We would delete paragraph 65.5(a)(4) and in its place would require that a local official assure that the land or structure to be removed from the SFHA is ''reasonably safe from flooding'' as currently required in section 60.3(a).
- A local community's determination that land or a structure is ''reasonably safe from flooding'' must consider best engineering practices, and analyses that demonstrate that risk from the base flood would be mitigated must support the determination. Depending on the circumstances, communities may wish to require that the applicant perform these analyses and that a registered design professional must certify the analyses, particularly for construction below the base flood elevation.
- The Director may request supporting documentation regarding the decision process leading to the conclusion that the land or structure to be removed from the SFHA is reasonably safe from flooding.
- We would provide technical guidance to local officials regarding standard fill placement and building practices when avoiding development in the floodplain is unavoidable. The guidance would give local officials the ability to require that all fill be adequately protected from the forces of erosion, scour, or differential settlement. It would also encourage local officials to require elevation above the base flood. In addition to existing guidance, we propose to publish a Technical Bulletin (FIA–TB–10), entitled ''Ensuring that Structures Built in or Near Special Flood Hazard Areas Are Reasonably Safe From Flooding'' to provide further guidance to communities and design professionals in the implementation of this proposed rule. A copy of proposed TB #10 can be obtained either by downloading it from FEMA's web site at *www.fema.gov/mit/techbul.htm* or by contacting FEMA's publication distribution facility at 1–800–480–2520 and requesting a copy.
- If we learn that the community has not met the minimum floodplain management requirements of section 60.3, we could take action to remedy the violation and we could hold the request to revise the map in abeyance. This includes the requirement that residential structures in mapped SFHAs be built with their lowest floors (including basement) above the base flood.
- We would not actively review previously issued determinations under section 65.5 for conformity with these

revised procedures. We would, however, review previously denied applications for a LOMR–F processed under paragraph 65.5(a)(4) upon written request.

• New LOMR–F requests and requests for LOMR–F redeterminations would be subject to the current fee schedule established in 44 CFR part 72.

• We would monitor the effectiveness of this rule change. Factors considered would include: ease of implementation, appropriateness of supporting engineering analyses, impact on floodplain management practices at the State and local level, and effectiveness in mitigating against flood loses. Within one year after we publish the final rule, we plan to re-evaluate this decision to determine whether changes to these or other related rules are warranted.

Comment Period Exception

Under 44 CFR 1.4(e) it is our normal policy to afford the public at least 60 days to submit comments on a proposed rule, unless the Director makes an exception and explains the reasons for the exception. The Director makes an exception to the 60-day comment policy for this proposed rule on the grounds that the rule is a clarification of existing policy and that it is in the public interest of remove the confusion and inconsistency that exists in the current rule, to remove the rule's adverse impact on property owners, and to enhance the ability of local officials to make sound floodplain management decisions as soon as possible consistent with the requirements of the Administrative Procedure Act.

National Environmental Policy Act

FEMA will not prepare an environmental analysis under NEPA since this rule would address an apparent administrative inconsistency that has no bearing on building practices or on the built or natural environment. This proposed rule would remove the current distinction between fill placed in an SFHA containing structures and fill placed in an SFHA without structures, both of which are allowable under current laws and regulations governing participation in the National Flood Insurance Program. Removing this distinction would resolve an apparent inconsistency in the floodprone status of a subset of structures built on fill within the SFHA. These apparent inconsistencies result from differences in the administrative processes followed by communities that permit development in floodplains rather than from physical differences in the built environment. We will continue to permit earthen fill and other types of development within the SFHA when applicable, and we will continue to require residential structures built in identified flood hazard areas to have their lowest floor (including basement) elevated to or above the base flood.

Regulatory Planning and Review

We have prepared and reviewed this proposed rule under the provisions of E.O. 12866, Regulatory Planning and Review. Under Executive Order 12866, 58 FR 51735, October 4, 1993, a significant regulatory action is subject to OMB review and the requirements of the Executive Order. The Executive Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This proposed rule would change the criteria that we would use to determine whether we can issue a LOMR–F to remove unimproved land or land with structures from the Special Flood Hazard Area (SFHA) by raising ground elevations using engineered earthen fill. We know of no conditions that would qualify the rule as a ''significant regulatory action'' within the definition of section 3(f) of the Executive Order. To the extent possible this proposed rule adheres to the principles of regulation as set forth in Executive Order 12866. This proposed rule has been reviewed by the Office of Management and Budget under the provisions of Executive Order 12866.

Paperwork Reduction Act

In accordance with the provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*, the Office of Management and Budget (OMB) approved the collections of information applicable to this proposed rule: OMB Number 3067–0147, Report to Submit Technical or Scientific Data to Correct Mapping Deficiencies Unrelated to Community-Wide Elevation Determinations (Amendments & Revisions to National Flood Insurance Program Map).

Following is a summary of how each form will be used:

(a) *FEMA Form 81–87. Property Information.* This form describes the location of the property, what is being requested, and what data are required to support the request.

(b) *FEMA Form 81–87E. Credit Card Information.* This form outlines the information needed to process a request when the requester is paying by credit card.

(c) *FEMA Form 82–87A. Elevation Information.* This form indicates what the Base Flood (100-year) Elevation (BFE) for the property is, how the BFE was determined, the lowest ground elevation on the property, and/or the elevation of the lowest adjacent grade to any structures on the property. This information is required for FEMA to determine whether the property that is being requested to be removed from the SFHA is above the BFE.

(d) *FEMA Form 81–87C. Community Acknowledgment of Requests Involving Fill.* 44 CFR 65.5(a)(6) requires that if fill is placed to remove an area from the SFHA then the community must acknowledge the request. This form ensures that the requester fulfills this requirement before submitting the request to FEMA.

(e) *FEMA Form 81–87D. Summary of Elevations—Individual Lot Breakdown.* This form is used in conjunction with the Elevation Information Form for requests involving multiple lots or structures. It provides a table to allow the required submitted data to be presented in a manner for quick and efficient review.

The estimated burden on individual property owners is:

	Hours
Property Information	1.63
Credit Care Form	0.6
Elevation Information	0.63
Community Acknowledgment of Requests Involving Fill	0.88
Summary of Elevations—Individual Lot Breakdown	0.67

The number of requesters will vary from year to year, as we have no control over the number of people who will seek to have determinations made for their properties. For the purposes of this rule we estimate the following annual burdens:

Requesters	2,500
Hours per response	4.22
Total hours	10.550
Total costs @ $50/hour	$527,500

Regulatory Flexibility Act, 5 U.S.C. 601

Under the Regulatory Flexibility Act agencies must consider the impact of their rulemakings on ''small entities'' (small businesses, small organizations and local governments). When an agency is required by 5 U.S.C. 553 to publish a notice of proposed rulemaking, a regulatory flexibility analysis is required for both the notice and the final rule if the rulemaking could ''have a significant economic impact on a substantial number of small entities.'' The Act also provides that if a regulatory flexibility analysis is not required, the agency must certify in the rulemaking document that the rulemaking will not ''have a significant economic impact on a substantial number of small entities.''

For the reasons that follow, I certify that a regulatory flexibility analysis is not required for this rule because it would not have a significant economic impact on a substantial number of small entities. This proposed rule is a clarification of existing policy and we propose the rule to remove the confusion and inconsistency that exists in the current rule. We expect that the proposed rule would remove the current rule's adverse impact on property owners, including small entities. This proposed rule would remove apparent inconsistencies in the current rule and would provide a single, uniform set of floodplain management criteria applicable to all applicable structures, regardless of when an area is removed from the SFHA. We expect the proposed rule to enhance the ability of local officials to make sound floodplain management decisions more readily than under the current rule. We also expect that the proposed rule will reduce the administrative burden on property owners, including small entities. We further expect that the rule may reduce certain building costs, without increasing the risks of flooding either to the owners or to the National Flood Insurance Program.

Executive Order 12612, Federalism

Executive Order 13132, Federalism, dated August 4, 1999, sets forth principles and criteria that agencies must adhere to in formulating and implementing policies that have federalism implications, that is, regulations that have substantial direct effects on the States, or on the distribution of power and responsibilities among the various levels of government. Federal agencies must closely examine the statutory authority supporting any action that would limit the policymaking discretion of the States, and to the extent practicable, must consult with State and local officials before implementing any such action.

We have reviewed this proposed rule under E.O.13132 and have concluded that the rule does not have federalism implications as defined by the Executive Order. As noted under Regulatory Planning and Review, this proposed rule would change the criteria that we would use to determine whether we can issue a LOMR–F to remove unimproved land or land with structures from the Special Flood Hazard Area (SFHA) by raising ground elevations using engineered earthen fill. We know of no substantial direct effects on the States, or on the distribution of power and responsibilities among the various levels of government that would result from this proposed rule.

The Office of Management and Budget has reviewed this rule under the provisions of Executive Order 13132.

List of Subjects in 44 CFR Part 65

Flood insurance, Flood insurance rate maps, Reporting and recordkeeping requirements.

Accordingly, we propose to amend Part 65 of Chapter I, Subchapter B, of Title 44 of the Code of Federal Regulations as follows:

PART 65—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O 12127 of Mar. 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

2. Section 65.2 is amended by adding paragraph (c) to read as follows:

§ 65.2 Definitions

* * * * *

(c) For the purposes of this part, ''reasonably safe from flooding'' means flood waters will not inundate the land and structures to be removed from the SFHA during the occurrence of the base flood and that any subsurface waters related to the base flood will not damage or inundate existing or proposed buildings and infrastructure.

3. Section 65.5 is revised to read as follows:

§ 65.5 Revision to special hazard area boundaries with no change to base flood elevation determinations.

(a) *Data requirements for topographic changes.* In many areas of special flood hazard (excluding V zones and floodways) it may be feasible to elevate areas with earth fill above the base flood elevation. Scientific and technical information to support a request to gain exclusion from an area of special flood hazard of a structure or parcel of land that has been elevated by the placement of fill will include the following:

(1) A copy of the recorded deed indicating the legal description of the property and the official recordation information (deed book volume and page number) and bearing the seal of the appropriate recordation official (*e.g.,* County Clerk or Recorder of Deeds).

(2) If the property is recorded on a plat map, a copy of the recorded plat indicating both the location of the property and the official recordation information (plat book volume and page number) and bearing the seal of the appropriate recordation official. If the property is not recorded on a plat map, FEMA requires copies of the tax map or other suitable maps to help in locating the property accurately.

(3) If a legally defined parcel of land and/or a structure is involved, a topographic map indicating present ground elevations, and date of fill. FEMA will base its determination that a legally defined parcel of land or a structure is to be excluded from the area of special flood hazard upon a comparison of the base flood to the ground elevations of the parcel or the lowest adjacent grade to the structure. If the ground elevations of the entire legally defined parcel of land or the lowest adjacent grade to the structure are at or above the elevation of the base flood, FEMA may exclude the parcel and/or structure from the area of special flood hazard.

(4) Written assurance by the participating community that they have complied with the appropriate minimum floodplain management requirements outlined in § 60.3 of this chapter. This includes the requirements that:

(i) Residential structures built in the SFHA have their lowest floor elevated to or above the base flood;

(ii) The community has determined through best engineering practices that the land or structures to be removed from the SFHA are ''reasonably safe from flooding'', and that the community maintains on file all supporting engineering analyses that it used to make that determination; and

(iii) The community has issued all necessary permits for development within the SFHA.

(5) Data to substantiate the base flood elevation. If FEMA has completed a Flood Insurance Study (FIS), FEMA will use those data to substantiate the base flood. Otherwise, data provided by an

authoritative source, such as the U.S. Army Corps of Engineers, U.S. Geological Survey, Natural Resources Conservation Service, State and local water resource departments, or technical data prepared and certified by a registered professional engineer may be submitted. If base flood elevations have not previously been established, hydraulic calculations may also be requested.

(6) A revision of flood plain delineations based on fill must demonstrate that any such fill does not result in a floodway encroachment.

(b) *New topographic data.* The procedures described in paragraphs (a)(1) through (5) of this section may be also followed to request a map revision when no physical changes have occurred in the area of special flood hazard, when no fill has been placed, and when the natural ground elevations, as evidenced by new topographic maps, more detailed or more accurate than those used to prepare the map to be revised, are shown to be above the elevation of the base flood.

(c) *Certification requirements.* A registered professional engineer or licensed land surveyor must certify the items required in paragraphs (a)(3) and (b) of this section. Such certifications are subject to the provisions of § 65.2.

(d) *Submission procedures.* Submit all requests to the appropriate FEMA Regional Office servicing the community's geographic area or to the FEMA Headquarters Office in Washington, DC, and submit the appropriate payment with the requests, in accordance with 44 CFR part 72.

4. Paragraph 65.6 is amended by adding paragraph (a)(14) to read as follows:

§ 65.6 Revision of base flood elevation determinations.

(a) * * *

(14) Written assurance by the participating community that they have complied with the appropriate minimum floodplain management requirements outlined in § 60.3 of this chapter. This includes the requirements that:

(i) Residential structures built in the SFHA have their lowest floor elevated to or above the base flood;

(ii) The community has determined through best engineering practices that the land or structures to be removed from the SFHA are ''reasonably safe from flooding'', and that the community maintains on file all supporting engineering analyses that it used to make that determination; and

(iii) The community has issued all necessary permits for development within the SFHA.

* * * * *

Dated: October 3, 2000.

Michael Armstrong,

Associate Director for Mitigation.

[FR Doc. 00–25834 Filed 10–6–00; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–2244, MM Docket No. 00–188, RM–9969]

Digital Television Broadcast Service; New Orleans, LA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by WWL–TV, Inc., licensee of station WWL–TV, NTSC channel 4, New Orleans, Louisiana, requesting the substitution of DTV channel 36 for station WWL–TV's assigned DTV channel 30. DTV Channel 36 can be allotted to New Orleans, Louisiana, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (29–54–23 N. and 90–02–23 W.). As requested, we propose to allot DTV Channel 36 to New Orleans with a power of 1000 and a height above average terrain (HAAT) of 305 meters.

DATES: Comments must be filed on or before November 27, 2000, and reply comments on or before December 12, 2000.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW, Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: John M. Burgett, Wiley, Rein & Fielding, 1776 K Street, NW, Washington, DC 20006 (Counsel for WWL–TV, Inc.).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 00–188, adopted September 29, 2000, and released December 12, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 00–25809 Filed 10–6–00; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 092200A]

Gulf of Mexico Fishery Management Council; Public Hearings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Public hearings; request for comments.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene public hearings on draft Amendment 7 to the Fishery Management Plan for the Stone Crab Fishery of the Gulf of Mexico. Amendment 7 proposes to create a Federal trap certificate program for the commercial stone crab fishery in Federal waters (exclusive economic zone (EEZ)) off Florida. This program would be similar to the trap certificate program adopted by the State of Florida. In addition, public testimony on Amendment 7 will be accepted at the Gulf Council meeting in November 2000. A separate **Federal Register** notice will give details about that meeting.

DATES: The Council will accept written comments through November 3, 2000.

The public hearings will be held in October 2000. See **SUPPLEMENTARY INFORMATION** for specific dates and times of the public hearings.

ADDRESSES: Written comments should be sent to Mr. Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301, North, Suite 1000, Tampa, FL 33619. Copies of draft Amendment 7 are available from Mr. Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301, North, Suite 1000, Tampa, FL 33619; telephone: 813-228-2815; fax: 813-769-4520. The public hearings will be held in Marathon and Crystal River, FL (For specific locations, see **SUPPLEMENTARY INFORMATION**).

FOR FURTHER INFORMATION CONTACT: Mr. Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301, North, Suite 1000, Tampa, FL 33619; telephone: 813-228-2815.

SUPPLEMENTARY INFORMATION: The public hearings will be convened to take public comment on draft Amendment 7. Draft Amendment 7 would create a Federal trap certificate program for the commercial stone crab fishery in the EEZ off Florida. This program would be similar to the trap certificate program adopted by the State of Florida.

A summary of the proposed Amendment 7 Federal stone crab trap certificate program follows:

1. The Federal program would recognize the Florida stone crab license and tags for use in the EEZ but would not require them.

2. Persons who could not obtain or chose not to obtain the state license/tags could apply for a Federal vessel permit, trap certificate, and trap tags.

3. The same qualifying criteria would apply for obtaining the Federal vessel permit/trap certificate/trap tags as apply for obtaining the state license/tags (i.e., 300 lb (136.1 kg) of claws landed in one of the six fishing seasons 1993/1994 through 1998/1999). The end of the draft Amendment 7 qualifying period would be May 15, 1999.

4. Persons would have 90 days to apply for a Federal vessel permit/trap certificate/trap tags after the effective date of implementation of the final rule.

5. Persons qualifying would be issued a Federal vessel permit/trap certificate/trap tags based on their landings divided by 5 lb (2.3 kg), which is the annual harvest level that would occur when the number of traps is reduced to the optimum level of 600,000 traps.

6. Federal vessel permits, trap certificates, and tags would be non-transferrable.

7. It is anticipated that the cost of the Federal trap tags would be higher than the cost of the state trap tags (i.e., $1.10 vs $0.50).

8. Draft Amendment 7 includes a Federal appeals process allowing fishermen to appeal denied applications for a Federal vessel permit/trap certificate/trap tags.

Time and Location for Public Hearings

Public hearings for draft Amendment 7 will be held at the following locations, dates, and times:

1. October 16, 2000, 7 p.m., Marathon Government Center, BOCC Room, 2798 Overseas Highway MM 47.5, Marathon, FL 33050; telephone: 305-295-4385.

2. October 18, 2000, 7 p.m., Plantation Inn & Gulf Resort, 9301 West Fort Island Trail, Crystal River, FL 34429; telephone: 352–795–4211.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by November 3, 2000.

Dated: October 3, 2000.

Clarence Pautzke,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 00–25957 Filed 10–6–00; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 65, No. 196
Tuesday, October 10, 2000

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. FV00–33–1NC]

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension for and revision to a currently approved information collection for the Export Apple Act and the Export Grape and Plum Act.

DATES: Comments on this notice must be received by December 11, 2000, to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Valerie L. Emmer-Scott, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, D.C., 20090–6456, telephone (202) 205–2829 or Fax (202) 720–5698, or E-mail: moab.docketclerk@usda.gov.

Small businesses may request information on this notice by contacting Jay Guerber, Regulatory Fairness Representative, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION:

Title: Export Fruit Regulations—Export Apple Act (7 CFR Part 33) and the Export Grape and Plum Act (7 CFR Part 35).

OMB Number: 0581–0143.

Expiration Date of Approval: July 31, 2001.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: Fresh apples and grapes grown in the United States shipped to any foreign destination must meet minimum quality and other requirements established by regulations issued under the Export Apple Act (7 U.S.C. 581–590) and the Export Grape and Plum Act (7 U.S.C. 591–599). Currently, plums are not regulated under the Export Grape and Plum Act. The regulations issued under the Export Grape and Plum Act (7 CFR Part 35) cover fresh grapes grown in the United States and shipped to foreign destinations, except Canada and Mexico. The regulations issued under the Export Apple Act (7 CFR Part 33) covers fresh apples grown in the United States shipped to foreign destinations. In accordance with amendments to that Act, pears have been removed from coverage and the current regulations will be amended accordingly. The Secretary of Agriculture is authorized to oversee the implementation of the export fruit acts and issue regulations regarding these commodities. The information collection requirements in this request are essential to carry out the intent and administration of the export fruit acts. The Export Apple Act and the Export Grape and Plum Act have been in effect since 1933 and 1960 respectively.

Both Acts were designed to promote the foreign trade of the United States in apples, grapes and plums; to protect the reputation of these American-grown commodities; and to prevent deception or misrepresentation of the quality of such products moving in foreign commerce.

The regulations issued under the Acts (§ 33.11 for apples, and § 35.12 for grapes) require that the U.S. Department of Agriculture (USDA) officially inspect and certify that each shipment of fresh apples and grapes is in compliance with all pertinent regulatory requirements effective under the Acts. Persons who ship fresh apples and grapes grown in the United States to foreign destinations must have such shipment inspected and certified by Federal or Federal-State Inspection Service (FSIS) inspectors. The FSIS is administered by the Agricultural Marketing Service.

The forms covered under this information collection require the minimum information necessary to effectively carry out the export fruit acts, and their use is necessary.

The information collection requirements in this request is primarily in the form of recordkeeping. Information needed by USDA is available on official FSIS inspection certificates, and on phytosanitary inspection certificates issued by USDA's Animal and Plant Health Inspection Service.

Export carriers are required to keep on file for three years copies of inspection certificates for apples and grapes transported by them. Export shippers are required to label certain containers of apples and grapes used for export shipments.

The number of exporters has remained fairly constant in recent years. There are an estimated 115 exporters who use the required forms and the corresponding forms have remained constant.

The information collection requirements in this request are periodically reviewed to ensure that they place as small a burden on the exporter as possible. Procedures have been streamlined to assure efficiency in administering the Acts.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 4.9528 hours per response.

Respondents: Fruit export shippers and export carriers.

Estimated Number of Respondents: 115.

Estimated Number of Responses per Respondent: 3.96.

Estimated Total Annual Burden on Respondents: 2,204.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated,

electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC, 20090–6456; Fax: (202) 720–5698; or E-mail: moab.docketclerk@usda.gov. Comments should reference the docket number and the date and page number of this issue of the **Federal Register**. All comments received will be available for public inspection during regular business hours at the same address, or can be viewed at: http://www.ams.usda.gov/fv/moab.html. All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: October 3, 2000.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00–25947 Filed 10–6–00; 8:45 am]

BILLING CODE 3410–02–U

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. FV00–998–1NC]

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension for and revision to a currently approved information collection for Marketing Agreement No. 146 Regulating the Quality of Domestically Produced Peanuts 7 CFR part 998) (Agreement).

DATES: Comments on this notice must be received by December 11, 2000.

FOR FURTHER INFORMATION CONTACT: Contact Valerie L. Emmer-Scott, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S., P.O. Box 96456, Washington, DC 20090–6456; Tel: (202) 205–2829, Fax: (202) 720–5698, or E-mail: moab.docketclerk@usda.gov. All comments should reference the docket number and the date and page number of this issue of the **Federal Register**.

Small businesses may request information on this notice by contacting Jay Guerber, Regulatory Fairness Representative, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION:

Title: Marketing Agreement No. 146, Regulating the Quality of Domestically Produced Peanuts—7 CFR part 998.

OMB Number: 0581–0067.

Expiration Date of Approval: July 31, 2001.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: Marketing agreement and order programs provide an opportunity for producers of fresh fruits, vegetables and specialty crops, in a specified production area, to work together to solve marketing problems that cannot be solved individually. Such regulations help ensure adequate supplies of high quality product and adequate returns to producers. Under the Agricultural Marketing Agreement Act of 1997 (AMAA), as amended (7 U.S.C. 601–674), the Agreement was established for handlers who voluntarily signed it. Signers agreed to have peanuts inspected, meet both incoming and outgoing quality regulations, be chemically tested and certified ''negative'' as to aflatoxin. The Secretary of Agriculture is authorized to oversee the Agreement's operations and consider issuing regulations recommended by a committee of producer and handler representatives from each of the three peanut producing areas within the 16-state production area.

The information collection requirements in this request are essential to carry out the intent of the AMAA, to provide the respondents the type of service they request, and to administer the Peanut Marketing Agreement program, which has been operating since 1965.

The Agreement authorizes the issuance of quality regulations along with inspection requirements. The Agreement also provides authority for limited indemnification. The Agreement, and rules and regulations issued thereunder, authorize the Peanut Administrative Committee (Committee), which is responsible for locally administering the program, to require handlers and growers to submit certain information. Much of the information is compiled in aggregate and provided to the industry to assist in marketing decisions.

The Committee has developed forms as a means for persons to file required information with the Committee relating to peanut supplies, shipments, dispositions, and other information needed to effectively carry out the purpose of the AMAA and Agreement. USDA forms are used by peanut growers and handlers, who are nominated by their peers to serve as representatives on the Committee, to submit their qualifications to the Secretary. Other USDA forms are used by handlers to sign the Agreement.

These forms require the minimum information necessary to effectively carry out the requirements of the Agreement, and their use is necessary to fulfill the intent of the AMAA as expressed in the Agreement.

The information collected is used only by authorized representatives of the USDA, including AMS, Fruit and Vegetable Programs' regional and headquarter's staff, and authorized employees of the Committee. Authorized Committee employees and the industry, which may be provided only aggregate (not confidential) information, are the primary users of the information and AMS is the secondary user.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .45 hours per response.

Respondents: Peanut producers and persons handling fresh and processed peanuts produced in the 16-state production area.

Estimated Number of Respondents: 25.

Estimated Number of Responses per Respondent: 10.44.

Estimated Total Annual Burden on Respondents: 118 hours.

Comments: Comments are invited on: (1) Whether the proposed collection of the information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments should reference OMB No. 0581–0067 and the Peanut Marketing Agreement No. 146, and be mailed to Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456; Fax (202) 720–5698; or E-mail: moab.docketclerk@usda.gov. Comments should reference the docket number and the date and page number of this issue of the **Federal Register**. All comments received will be available for public inspection in the Office of the Docket Clerk during regular USDA business hours at 14th and Independence Ave., SW, Washington, DC, room 2525–S, or can be viewed at: http://www.ams.usda.gov/fv/moab.html.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: October 3, 2000.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00–25948 Filed 10–6–00; 8:45 am]

BILLING CODE 3410–02–U

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Sunshine Act Meeting: CCC Board Meeting; Correction

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Sunshine Act meeting correction.

SUMMARY: In **Federal Register** document 65–FR–192 beginning on page 58983–58984 in the issue of Tuesday, October 3, 2000, make the following correction:

The CCC Board Meeting scheduled for October 10, 2000, at 2 p.m., in Room 104–A, Jamie L. Whitten Building has been canceled. The meeting will be rescheduled at a later date.

Dated: October 4, 2000.

Juanita B. Daniels,

Acting Secretary, Commodity Credit Corporation.

[FR Doc. 00–26037 Filed 10–5–00; 12:52 pm]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Release of Georgia Tobacco Farmers' Social Security Numbers to the State of Georgia

AGENCY: Farm Service Agency, USDA.

ACTION: Notice of Intent to Release Records and Opportunity to Opt Out of the Release.

SUMMARY: This notice announces the intention of the Secretary of Agriculture to release the social security numbers of those Georgia tobacco farmers who receive Tobacco Loss Assistance Program 2000 (TLAP) payments; and provides notice of the method in which interested parties can opt out of that release. The release will be to the State of Georgia which will distribute an identical sum of State funds to each TLAP 2000 Georgia farmer.

EFFECTIVE DATE: October 6, 2000.

ADDRESSES: Notices should be mailed to Charles Hatcher, Farm Service Agency (FSA), Tobacco and Peanuts Division, STOP 0514, 1400 Independence Avenue, SW, Washington, DC 20250–0514.

FOR FURTHER INFORMATION CONTACT: Misty L. Jones, telephone (202) 720–0200.

SUPPLEMENTARY INFORMATION: The TLAP 2000 Program is provided for in Section 204(b) of the Agricultural Risk Protection Act of 2000 (ARPA), Public Law 106–224, and is a program in which Federal payments are made to tobacco farmers and other parties with an interest in certain kinds of tobacco which have had reduced quotas. Tobacco farmers who applied for TLAP 2000 payments were required to provide to the Farm Service Agency their social security numbers. The ARPA of 2000, which provided funds for TLAP 2000, contains the following restriction as to the State of Georgia:

> The Secretary shall use the amount allocated to the State of Georgia under paragraph (3) to make payments to eligible persons in Georgia only if the State of Georgia agrees to use an equal amount (not to exceed $13,000,000) to make payments at the same time, or subsequently, to the same eligible persons in the same manner as provided for the Federal payment under paragraphs (4) and (5).

In order to efficiently and expeditiously make the matching payments to Georgia tobacco producers, the State of Georgia has requested that the Farm Service Agency provide the names, addresses, social security numbers, and the amount of money to be paid to each farmer. However, there may be some Georgia tobacco farmers who would rather not have their social security numbers released to the State. Because these matching State payments can provide much needed help to Georgia producers, the Secretary intends to provide the social security numbers to the State of Georgia, except in the case of those parties who wish to opt out of the release. Those who wish to opt out of the release should send notice in writing of their election to Charles Hatcher, Farm Service Agency, Tobacco and Peanuts Division, STOP 0514, 1400 Independence Avenue, SW, Washington, D.C. 20250–0514. Such notice must be received by October 25, 2000.

Parties should understand that a request for an exemption from the disclosure could result in a delay in receiving a distribution from the State of Georgia or ineligibility for such a distribution. It is not expected that there will be many exemption requests filed. Accordingly, it appears that the record collections can be made at one location for re-routing to the national record center for processing.

Signed at Washington, D.C., on October 3, 2000.

Keith Kelly,

Administrator, Farm Service Agency.

[FR Doc. 00–25949 Filed 10–6–00; 8:45 am]

BILLING CODE 3410–05–U

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Transportation and Related Equipment Technical Advisory Committee; Notice of Open Meeting

The Transportation and Related Equipment Technical Advisory Committee will meet on October 25, 2000, 9 a.m., at the Herbert C. Hoover Building, Room 3884, 14th Street between Pennsylvania & Constitution Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical question that affect the level of export controls applicable to transportation and related equipment or technology.

Agenda

1. Opening remarks by the Chairman.
2. Consultation with Committee on renewal of charter.
3. Review of pending regulatory revisions.
4. Update on missile technology issues.
5. Update on Wassenaar Arrangement negotiations.
6. Presentation of papers or comments by the public.
7. Review of status of actions items from previous meeting.
8. Member assignments for Wassenaar Arrangement proposals.

The meeting will be open to the public and a limited number of seats

will be available. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that you forward your public presentation materials two weeks prior to the meeting to the following address: Ms. Lee Ann Carpenter, OSIES/EA/BXA Ms: 3876, U.S. Department of Commerce, 14th & Constitution Avenue, NW., Washington, DC 20230.

For more information or copies of the minutes, please call Lee Ann Carpenter on (202) 482–2583.

Dated: October 4, 2000.

Lee Ann Carpenter,

Committee Liaison Officer.

[FR Doc. 00–25937 Filed 10–6–00; 8:45 am]

BILLING CODE 3510–JT–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–807]

Final Results of Expedited Sunset Review: Ferrovanadium and Nitrided Vanadium From Russia

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of expedited sunset review: Ferrovanadium and Nitrided Vanadium from Russia.

SUMMARY: On June 5, 2000, the Department of Commerce (''the Department'') initiated a sunset review of the antidumping duty order on ferrovanadium and nitrided vanadium from Russia (65 FR 35604) pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the basis of a notice of intent to participate and substantive comments filed on behalf of the domestic interested parties and inadequate response from respondent interested parties, Department determined to conduct an expedited sunset review. As a result of this review, the Department finds that revocation of the antidumping order would likely lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

EFFECTIVE DATE: October 10, 2000.

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit or James P. Maeder, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482–5050 or (202) 482–3330, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in Procedures for Conducting Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders, 63 FR 13516 (March 20, 1998) (''Sunset Regulations'') and in 19 CFR Part 351 (2000) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—Policies Regarding the Conduct of Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) (''Sunset Policy Bulletin'').

Background

On June 5, 2000, the Department initiated a sunset review of the antidumping order on ferrovanadium and nitrided vanadium from Russia (65 FR 35604), pursuant to section 751(c) of the Act. On June 20, 2000, the Department received a Notice of Intent to Participate within the deadline specified in section 351.218(d)(1)(i) of the Sunset Regulations on behalf of the Ferroalloys Association Vanadium Committee (the ''TFA Vanadium Committee'') and its members; Bear Metallurgical Corporation, Shieldalloy Metallurgical Corporation (''Shieldalloy''), Gulf Chemical and Metallurgical, Strategic Minerals Corporation, and CS Metals of Louisiana, (collectively ''the domestic interested parties''). On July 5, 2000, the Department received a complete substantive response from the domestic interested parties within the 30-day deadline specified in the Sunset Regulations under section 351.218(d)(3)(i).

The TFA Vanadium Committee claimed interested party status under 19 USC 1677(9)(E) as a trade or business association of a majority of whose members manufacture, produce, or wholesale a domestic like product in the United States. As domestic interested parties, the following members of the TFA Vanadium Committee claimed interested party status under 19 USC 1677(9)(C); Bear Metallurgical Corporation, Shieldalloy Metallurgical Corporation, Gulf Chemical and Metallurgical and Strategic Minerals Corporation.[1] In addition, they identified another member, CS Metals of Louisiana, as an interested party in this sunset review. See Domestic Interested Parties, July 5, 2000, Substantive Response at 2–3.

Bear Metallurgical Corporation and Shieldalloy Metallurgical Corporation assert that they are the only U.S. manufacturers or producers of ferrovanadium. *Id.* at 2. Gulf Chemical and Metallurgical, and Strategic Minerals Corporation assert that they are wholesalers in the United States of domestically-produced ferrovanadium. *Id.* at 2.

With respect to historical participation of this order, the domestic interested parties assert that in 1994, Shieldalloy filed the petition that lead to the issuance of the antidumping duty order on ferrovanadium and nitrided vanadium from Russia. In addition, Shieldalloy actively participated in the Department's first administrative review covering the period January 4, 1995, through June 30, 1996. *Id.* at 4–5.

Although Shieldalloy requested an administrative review for one exporter, Galt Alloys, during the period July 1, 1996, through June 30, 1997, the review was terminated because Galt Alloys did not make sales of the subject merchandise between July 1, 1996 and June 30, 1997. *Id.* at 4. The domestic interested parties further assert that Shieldalloy has actively participated in all judicial appeals and remand proceedings related to this order. *Id.* at 5.

On July 5, 2000, the Department received a complete substantive response to the notice on initiation from respondent interested parties; Vanadium Tulachermet (''Tulachermet'') and Chusovskoy Metallurgical Works Joint Stock Company (''Chusovskoy'') (collectively ''the respondent interested parties'') within the 30-day deadline specified in the Sunset Regulations under section 351.218(d)(3)(i). The respondent interested parties claimed interested party status under 19 USC 1677(9)(A) as foreign manufacturers of the subject merchandise. With respect to respondent interested parties' historical participation of the order, they assert that they participated in the original investigation by providing factors of production to the Department, although

[1] In its substantive response the domestic interested parties note that Strategic Minerals Corporation sells domestically-produced ferrovanadium in the United States through its wholly-owned subsidiary, U.S. Vanadium Corporation.

neither party was deemed an exporter. See Respondent Interested Parties, July 5, 2000, Substantive Response at 1. In the first administrative review, both Chusovskoy and Tulachermet provided information to the Department. However, in their substantive response they assert that, due to a tragic event at Chusovskoy, they were unable to complete their participation in this review. Id.

With respect to adequacy of response from respondent interested parties, the Department normally will conclude that respondent interested parties have provided adequate response to conduct a full sunset review where respondent interested parties account for more than 50 percent, by volume, of the total exports of subject merchandise to the United States. Where respondent interested parties provide inadequate responses, the Department will conduct an expedited sunset review and issue final results of review based on the facts available.

After examining respondent interested parties' import statistics, on June 26, 2000, the Department notified the U.S. International Trade Commission that respondent interested parties did not provide an adequate response in this sunset review, pursuant to section 751(c)(3)(B) of the Act, and 19 CFR 351.218(e)(1)(ii)(C)(2). Therefore, because we did not receive adequate response from respondent interested parties, we determined to conduct an expedited sunset review and to issue the final results not later than October 3, 2000.

Scope of Review

The products covered by this sunset review are ferrovanadium and nitrided vanadium, regardless of grade, chemistry, form or size, unless expressly excluded from the scope of this order. Ferrovanadium includes alloys containing ferrovanadium as the predominant element by weight (*i.e.,* more weight than any other element, except iron in some instances) and at least 4 percent by weight of iron. Nitrided vanadium includes compounds containing vanadium as the predominant element, by weight, and at least 5 percent, by weight, of nitrogen.

Excluded from the scope of this review are vanadium additives other than ferrovanadium and nitrided vanadium, such as vanadium-aluminum master alloys, vanadium chemicals, vanadium waste and scrap, vanadium-bearing raw materials, such as slag, boiler residues, fly ash, and vanadium oxides.

The products subject to this review are currently classifiable under subheadings 2850.00.20, 7202.92.00, 7202.99.5040, 8112.40.3000, and 8112.40.6000 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope is dispositive.

Analysis of Comments Received

All issues raised in these cases and rebuttal briefs by parties to this sunset review are addressed in the ''Issues and Decision Memorandum'' (''Decision Memo'') from Jeffrey A. May, Director, Office of Policy, Import Administration, to Troy H. Cribb, Acting Assistant Secretary for Import Administration, dated October 3, 2000, which is hereby adopted by this notice. The issues discussed in the Decision Memo include the likelihood of continuation or recurrence of dumping and the magnitude of the margin likely to prevail were the order revoked.

Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in room B–099 of the main Commerce Building. In addition, a complete version of the Decision Memo can be accessed directly on the Web at *http://ia.ita.doc.gov.* The paper copy and electronic version of the Decision Memo are identical in content.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping at the percentage weighted-average margins listed below:

Manufacturer/exporter	Margin (percent)
Galt Alloys, Inc	3.75
Gesellschaft fur Elektrometallurgie m.b.H. (and its related companies Shieldalloy Metallurgical Corporation and Metallurg, Inc.)	11.72
Odermet	10.10
Russia-wide Rate	108.00

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 3, 2000.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–25970 Filed 10–6–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–807]

Steel Concrete Reinforcing Bars From Turkey; Notice of Extension of Time Limits for Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce is extending the time limits of the preliminary results of the antidumping duty administrative review on steel concrete reinforcing bars from Turkey. The review covers four producers/exporters of the subject merchandise to the United States. The period of review is April 1, 1999, through March 31, 2000.

EFFECTIVE DATE: October 10, 2000.

FOR FURTHER INFORMATION CONTACT: Irina Itkin at (202) 482–0656, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION: Because it is not practicable to complete this administrative review within the time limits mandated by section 751(a)(3)(A) of Tariff Act of 1930, as amended by the Uruguay Round Agreements Act, the Department is extending the time limit for completion of the preliminary results. This review involves a number of complicated issues including high inflation in Turkey during the period of review. Moreover, the petitioners requested that the Department conduct verification, pursuant to section 782(i)(3)(A) of the Act. Therefore, we intend to verify the sales and cost information submitted by the four respondents. Because the Department will not be able to conduct verification before the scheduled preliminary results, we have extended the deadline until April 30, 2001.

This extension is in accordance with section 751(a)(3)(A) of the Act (19

U.S.C. 1675(a)(3)(A)) and 19 CFR 351.213(h)(2).

Dated: October 3, 2000.

Richard W. Moreland

Deputy Assistant Secretary for Import Administration.

[FR Doc. 00–25971 Filed 10–6–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 081400A]

Taking and Importing of Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of harvesting nation embargoes.

SUMMARY: The Assistant Administrator for Fisheries, NMFS, (Assistant Administrator) imposed embargoes on yellowfin tuna and yellowfin tuna products from Belize, Bolivia, Colombia, El Salvador, Guatemala, Honduras, Nicaragua, Panama, Vanuatu, and Venezuela under the Marine Mammal Protection Act (MMPA), 16 U.S.C. 1361 *et seq.*, on October 3, 2000. This action prohibits the importation into the United States from these nations of yellowfin tuna and yellowfin tuna products harvested by purse seine in the eastern tropical Pacific Ocean (ETP). NMFS is imposing the embargoes because these nations harvest tuna in the ETP with purse seine vessels with greater than 400 short tons (362.8 mt) of carrying capacity and have not received ''affirmative findings'' as required by 50 CFR 216.24(f)(9). This determination remains in effect for each nation until an affirmative finding has been granted to a nation by the Assistant Administrator.

DATES: Effective October 3, 2000.

ADDRESSES: Copies of this notice may be obtained by writing to Nicole R. Le Boeuf, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, Maryland 90210.

FOR FURTHER INFORMATION CONTACT: Nicole R. Le Boeuf; phone 301–713–2322; fax 301–713–4060.

SUPPLEMENTARY INFORMATION: Prior to March 3, 1999, section 101(a)(2)(B) of the MMPA required nations wishing to import into the United States yellowfin tuna or yellowfin tuna products harvested by purse seine in the ETP to submit documentation indicating that they were enforcing dolphin protection measures comparable to those of the United States. Under section 101(a)(2)(B) of the MMPA effective prior to March 3, 1999, Belize, Colombia, Panama, Vanuatu, and Venezuela were embargoed. The existing embargoes against yellowfin tuna harvested by purse seine in the ETP and exported from those five nations remain in effect.

Since March 3, 1999, the standards of the MMPA, as amended by the International Dolphin Conservation Program Act (IDCPA) (Pub. L. 105–42), changed for the entry into the United States of yellowfin tuna and yellowfin tuna products harvested by purse seine vessels in the ETP, as set forth by the interim final rule implementing the IDCPA (65 FR 30, January 3, 2000).

In order to export to the United States yellowfin tuna harvested by purse seine in the ETP, nations that have, operating under their jurisdiction, purse seine vessels with over 400 short tons of carrying capacity that fish for tuna in the ETP (i.e., a harvesting nation) are now obligated to submit documentary evidence directly to Assistant Administrator, and to request an affirmative finding as required by 50 CFR 216.24(f)(9). Based upon documentary evidence submitted by a harvesting nation and obtained from the Inter-American Tropical Tuna Commission (IATTC) and/or from the Department of State, the Assistant Administrator will determine whether the nation qualifies for an affirmative finding under section 101(a)(2)(B) of the MMPA. An affirmative finding allows for the importation into the United States of yellowfin tuna and yellowfin tuna products harvested by purse seine in the ETP after March 3, 1999. If a harvesting nation does not provide documentary evidence that shows that the nation meets the standards under section 101(a)(2)(B) of the MMPA, the Assistant Administrator must embargo yellowfin tuna harvested by purse seine in the ETP. Bolivia, El Salvador, Guatemala, Honduras, and Nicaragua are not currently embargoed, however, those nations have failed to submit documentation to NMFS, as required by 50 CFR 216.24(f)(9).

The application procedures to request an affirmative finding are described in the interim final regulations implementing the IDCPA (65 FR 30, January 3, 2000). Harvesting nations must submit documentary evidence directly to the Assistant Administrator demonstrating that they meet several conditions related to compliance with the International Dolphin Conservation Program (IDCP), and request an affirmative finding. To issue an affirmative finding, NMFS must receive the following information:

1. A statement requesting an affirmative finding;

2. Evidence of membership in the Inter-American Tropical Tuna Commission (IATTC);

3. Evidence that a nation is meeting its obligations to the IATTC, including financial obligations;

4. Evidence that a nation is complying with the IDCP. For example, national laws and regulations implementing the Agreement on the IDCP and information that the nation is enforcing those laws and regulations;

5. Evidence of a tuna tracking and verification program comparable to the U.S. tracking and verification regulations at 50 CFR 216.94;

6. Evidence that the national fleet dolphin mortality limits (DMLs) were not exceeded in the previous calendar year;

7. Evidence that the national fleet per-stock per-year mortality limits, if they are allocated to countries, were not exceeded in the previous calendar year;

8. Authorization for the IATTC to release to the Assistant Administrator complete, accurate, and timely information necessary to verify and inspect Tuna Tracking Forms; and

9. Authorization for the IATTC to release to the Assistant Administrator information whether a nation is meeting its obligations of membership to the IATTC and whether a nation is meeting its obligations under the IDCP, including managing (not exceeding) its national fleet DMLs or its national fleet per-stock per-year mortality limits. A nation may opt to provide this information directly to NMFS on an annual basis or to authorize the IATTC to release the information to NMFS in years when NMFS will review and consider whether to issue an affirmative finding determination without an application from the harvesting nation.

An affirmative finding will be terminated, in consultation with the Secretary of State, if the Assistant Administrator determines that the requirements of 50 CFR 216.24(f)(9) are no longer being met or that a nation is consistently failing to take enforcement actions on violations which diminish the effectiveness of the IDCP. Every 5 years, the government of a harvesting nation, must request an affirmative finding and submit the required documentary evidence directly to the Assistant Administrator.

Until such time as the Assistant Administrator receives documentary evidence from the Governments of Belize, Bolivia, Colombia, El Salvador, Guatemala, Honduras, Nicaragua,

Panama, Vanuatu, and Venezuela demonstrating that they qualify for affirmative findings, embargoes on yellowfin tuna harvested by purse seine in the ETP by these nations will continue. These embargoes prohibit the importation into the United States from these nations of yellowfin tuna and yellowfin tuna products harvested by purse seine in the ETP after March 3, 1999.

Dated: October 3, 2000.

William T. Hogarth,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 00–25978 Filed 10–6–00; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D.092600A]

Marine Mammals; File No. 373–1575

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Point Reyes Bird Observatory (Dr. Sarah Allen, Principal Investigator) 4990 Shoreline Highway, Stinson Beach, CA 94970, has been issued a permit to take harbor seals (*Phoca vitulina richardsi*), northern elephant seals (*Mirounga angustirostris*), California sea lions (*Zalophus californianus*), and Steller sea lions (*Eumetopias jubatus*) for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802 (562/980–4001); and

Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, BIN C15700, Bldg. 1, Seattle, WA 98115 (206/526–6150).

FOR FURTHER INFORMATION CONTACT: Simona Roberts or Ruth Johnson, 301/713–2289.

SUPPLEMENTARY INFORMATION: On July 11, 2000, notice was published in the **Federal Register** 65 FR 42676) that a request for a scientific research permit to take harbor seals (*Phoca vitulina richardsi*), northern elephant seals (*Mirounga angustirostris*), California sea lions (*Zalophus californianus*), and Steller sea lions (*Eumetopias jubatus*) had been submitted by the above-named organization. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: October 3, 2000.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 00–25956 Filed 10–6–00; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before November 9, 2000.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Acting Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address Lauren_Wittenberg@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: October 3, 2000.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Student Financial Assistance

Type of Review: Reinstatement.

Title: The Leveraging Educational Assistance and Partnership (LEAP) Program.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 56

Burden Hours: 560

Abstract: The LEAP Program uses matching Federal and State funds to provide a nationwide system of grants to assist postsecondary educational students with substantial financial need. State agencies use this performance report to account for yearly program performance. The Department uses the information collected to assess the accomplishment of the program goals and objectives and to aid in program management and compliance assurance.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346.

Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at (202) 708–9266 or via his internet address Joe_Schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 00–25871 Filed 10–6–00; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

Privacy Act of 1974; System of Records

AGENCY: Office of Postsecondary Education, ED.

ACTION: Notice of a New System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Department of Education (ED) publishes this notice of a new system of records entitled ''Teacher Quality Recruitment Scholarship System (18–12–06).'' The system will contain information about the current and former scholarship recipients, scholarship awards, terms of the scholarship, data about the amount and percentage of teaching time, certification and employing information about the employing school and school district. The Department seeks comment on this new system of records described in this notice, in accordance with the requirements of the Privacy Act.

DATES: We must receive your comments on the proposed routine uses for the system of records included in this notice on or before November 9, 2000. The Department filed a report describing the new system of records covered by this notice with the Chair of the Committee on Governmental Affairs of the Senate, the Chair of the Committee on Government Reform and Oversight of the House, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on October 4, 2000. The changes made in this notice will become effective after the 30-day period for OMB review of the system expires on November 3, 2000, unless OMB gives specific notice within the 30 days that the changes are not approved for implementation or requests an additional 10 days for its review. The routine uses become effective November 9, 2000 unless they need to be changed as a result of public comment or OMB review. The Department will publish any changes to the routine uses.

ADDRESSES: Address all comments about the proposed routine uses to John Tressler, Office of Chief Information Officer, U.S. Department of Education, 400 Maryland Avenue, SW., room 4082 ROB–3, Washington, DC 20202–4580. Telephone: (202) 708–8900. If you prefer to send comments through the Internet, use the following address: Comments@ed.gov.

You must include the term ''SOR Teacher Quality'' in the subject line of the electronic message.

During and after the comment period, you may inspect all comments about this notice in room 4082 ROB–3, Seventh and D Streets, SW., Washington, DC, between the hours of 8:00 a.m. and 4:30 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of aid, you may call (202) 205–8113 or (202) 260–9895. If you use a TDD, you may call the Federal Information Relay Service at 1–800–877–8339.

FOR FURTHER INFORMATION CONTACT: Edward Crowe, U.S. Department of Education, 1990 K Street, NW., room 6150, Washington, DC 20202–8525. Telephone: 202–502–7762. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.,* Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Introduction

The Privacy Act (5 U.S.C. 552a) (Privacy Act) requires the Department to publish in the **Federal Register** this notice of a new system of records managed by the Department. The Department's regulations implementing the Act are contained in the Code of Federal Regulations (CFR) in 34 CFR Part 5b.

The Privacy Act applies to information about individuals that contain individually identifiable information and that may be retrieved by a unique identifier associated with each individual, such as a name or social security number. The information about each individual is called a ''record'' and the system, whether manual or computer-based, is called a ''system of records.'' The Privacy Act requires each agency to publish notices of systems of records in the **Federal Register** and to prepare reports to the Office of Management and Budget (OMB) whenever the agency publishes a new system of records.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use PDF you must have Adobe Acrobat Reader, which is available free at either of the previous sites. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498, or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: http://www.access.gpo.gov/nara/index.html.

Dated: October 4, 2000.

A. Lee Fritschler,

Assistant Secretary, Office of Postsecondary Education.

The Office of Postsecondary Education of the U.S. Department of Education publishes a notice of a new system of records to read as follows:

18–12–06

SYSTEM NAME:

Teacher Quality Recruitment Scholarship System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Teacher Quality Enhancement Grants Program, Office of Policy, Planning, and Innovation, Office of Postsecondary Education, U.S. Department of Education, 1990 K Street, NW., room 6151, Washington, DC 20006–8525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on individuals who have been awarded

scholarships with funds provided under Title II of the Higher Education Act by States or partnerships to prepare to become kindergarten through twelfth-grade teachers.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of information about scholarship recipients, including the amount and period of their scholarships and the institution that awarded them; information about former recipients, including data about the amount and percentage of time the teacher spends teaching; information about the awarding entity; information about the terms of the scholarship; the amount of the scholarship and information about the employing school and the school district, including a certification by the employing school or school district that it meets the regulatory definition of high-need.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title II, Section 204(e) of the Higher Education Act of 1965, as amended by the 1998 Higher Education Amendments, and 31 U.S.C. Chapter 37.

PURPOSE(S):

The information in this system will be used to ensure that recipients of scholarships provided with funds under Title II of the Higher Education Act who complete teacher education programs subsequently (1) teach in a high-need school of a high-need local educational agency for a period of time equivalent to the period for which the recipient received scholarship assistance; or (2) repay the amount of the scholarship. The information, therefore, is a tracking mechanism that will be used to carry out the statutory requirement found in Title II, Section 204(e). In addition the system information will be used to determine the success of the Teacher Recruitment component of the Teacher Quality Enhancement Grant Programs in preparing new teachers for employment in high-need schools and school districts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of Education (the Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility within the receiving entity's jurisdiction.

(2) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, Executive order, rule, regulation, or order issued pursuant thereto.

(3) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation or ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c), and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department of Education, or any component of the Department; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(4) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and Professional Organizations.* The Department may disclose a record to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(5) *Employee Grievance, Complaint or Conduct Disclosure.* The Department may disclose a record in this system of records to another agency of the Federal Government if the record is relevant to one of the following proceedings regarding a present or former employee of the Department: complaint, grievance, discipline or competence determination proceedings. The disclosure may only be made during the course of the proceeding.

(6) *Labor Organization Disclosure.* A component of the Department may disclose records to a labor organization if a contract between the component and a labor organization recognized under Title V of the United States Code, Chapter 71, provides that the Department will disclose personal records relevant to the organization's

mission. The disclosures will be made only as authorized by law.

(7) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(8) *Disclosure to the Department of Justice (DOJ).* The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(9) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(10) *Research Disclosure.* The Department may disclose records to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher shall be required to maintain Privacy Act safeguards with respect to the disclosed records.

(11) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The Member's right to the information is no greater than the right of the individual who requested it.

(12) *Disclosure to the Office of Management and Budget (OMB) for Credit Reform Act (CRA) Support.* The Department may disclose records to OMB as necessary to fulfill CRA requirements.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): The Department may disclose to a consumer reporting agency information regarding a claim by the Department which is determined to be valid and overdue as follows: (1) The name, address, taxpayer identification number and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim; and (3) the program under which the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in subsection 31 U.S.C. 3711(e). A consumer reporting agency to which these disclosures may be made is defined at 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM: STORAGE:

The records are maintained in hard copy, filed in standard filing cabinets; on access controlled personal computers; and on personal computer diskettes that are stored in filing cabinets.

RETRIEVABILITY:

Hardcopy files are retrieved by individual names, institutions of higher education and employing school districts. Electronic files may be accessed by using an individual's social security number, individual's name, name of institution of higher education, or name of employing school district.

SAFEGUARDS:

All physical access to the program location where this system of records is maintained is controlled and monitored by security personnel. The computers used by program staff to store any system data offer a high degree of resistance to tampering and circumvention. This security system limits data access to program staff and any contract staff that may be hired in the future. The system is available on a ''need to know'' basis. Controls are in place on individual's ability to access and alter records within the system. All users of this system are given unique user IDs with personal identifiers. All interactions by individual users with the system are recorded.

RETENTION AND DISPOSAL:

Disposition: Destroy five years after audit or ED's determination either that the scholarship recipient fulfills the service obligation or the indebtedness has been repaid or forgiven, whichever is later. (ED/RDS, Part 10, Item 3a)

SYSTEM MANAGER AND ADDRESS:

Director, Teacher Quality Enhancement Grant Programs, Office of Postsecondary Education, 1990 K Street, NW., room 6150, Washington, DC 20006–8525.

NOTIFICATION PROCEDURE:

If you wish to determine if you have a record in this system, provide the system manager with your name, date of birth, and social security number. Your request must meet the regulatory requirements of 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURE:

If you wish to gain access to your record in this system, provide the system manager with your name, date of birth, and social security number. Your request must meet the regulatory requirements of 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURE:

If you wish to contest the content of a record, contact the system manager. Your request must meet the regulatory requirements of 34 CFR 5b.7, including proof of identity.

RECORD SOURCE CATEGORIES:

Information is obtained from individual scholarship recipients, institutions of higher education attended by the recipients, and school districts that have employed the recipients.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 00–25942 Filed 10–6–00; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board Stewardship Workshop, Rocky Flats

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB) Stewardship Workshop, Rocky Flats. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meeting be announced in the **Federal Register**.

DATES: Thursday, October 26 through Friday, October 27, 2000.

TIME: 8 a.m. to 5 p.m each day.

ADDRESSES: Executive Tower Hotel, 1405 Curtis Street, Denver, CO 80202.

FOR FURTHER INFORMATION CONTACT: Ken Korkia, Board/Staff Coordinator, Rocky

Flats Citizens Advisory Board, 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021; telephone (303) 420–7855; fax (303) 420–7579.

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

Thursday, October 26

8:00–8:30 a.m.—Opening remarks.
8:30–11:30—Presentation by DOE-Headquarters representatives and reaction discussion.
2:00–2:45 p.m.—Site Specific presentations.
3:00–5:00 p.m.—Core Topic breakout sessions.

Friday, October 27

8:00–10:30 a.m.—Reports from CoreTopic breakout groups
10:45–11:30 am.—Site-specific breakout sessions.
1:00–2:30 p.m.—Core Topic breakout sessions.
2:45–4:30 p.m.—Final plenary discussion of Core Topic statements and wrap-up.

Public Participation

The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ken Korkia at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes

The minutes of this meeting will be available for public review and copying at the Public Reading Room located at the Office of the Rocky Flats Citizens Advisory Board, 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021; telephone (303) 420–7855. Hours of operations for the Public Reading Room are 9:00 a.m. to 4:00 p.m., Monday–Friday, except Federal holidays. Minutes will also be made available by writing or calling Deb Thompson at the address or telephone listed above.

Issued at Washington, DC on October 3, 2000.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 00–25922 Filed 10–6–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Notice of Inventions Available for License

AGENCY: Department of Energy, Office of General Counsel.

ACTION: Notice of inventions available for license.

SUMMARY: The Department of Energy hereby announces that the following patents are available for license, in accordance with 37 USC 207–209: U.S. patent No. 5,114,690, entitled ''Two Stage Sorption of Sulfur Compounds;'' U.S. Patent No. 5,324,661, entitled ''Chemotactic Selection of Pollutant Degrading Soil Bacteria''; U.S. Patent No. 5,384,048, entitled ''Bioremediation of Contaminated Groundwater''; and U.S. Patent No. 5,326,703, entitled ''Method of Degrading Pollutants in Soil.'' A copy of the patents may be obtained, for a modest fee, from the U.S. Patent and Trademark Office, Washington, DC 20231.

FOR FURTHER INFORMATION CONTACT: Robert J. Marchick, Office of the Assistant General Counsel for Technology Transfer and Intellectual Property, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; Telephone (202) 586–2802.

SUPPLEMENTARY INFORMATION: 35 U.S.C. 207 authorizes licensing of Government-owned inventions. Implementing regulations are contained in 37 CFR 404. 37 CFR 404.7(a)(1) authorizes exclusive licensing of Government-owned inventions under certain circumstances, provided that notice of the invention's availability for license has been announced in the **Federal Register**.

Issued in Washington, DC, on October 3, 2000.

Paul A. Gottlieb,

Assistant General Counsel for Technology, Transfer and Intellectual Property.

[FR Doc. 00–25920 Filed 10–6–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

Availability of the Bonneville Purchasing Instructions and Bonneville Financial Assistance Instructions

AGENCY: Bonneville Power Administration, DOE.

ACTION: Notice of document availability.

SUMMARY: Copies of the Bonneville Purchasing Instructions (BPI) which establishes the procedures Bonneville Power Administration (BPA) uses in the solicitation, award, and administration of its purchases of goods and services, including construction, and the Bonneville Financial Assistance Instructions (BFAI) which establishes the procedures BPA uses in the solicitation, award, and administration of financial assistance instruments (principally grants and cooperative agreements) are available from BPA for $30 and $15 each, respectively, or available without charge at the following Internet addresses:

http://www.bpa.gov/Corporate/kgp/bpi/bpi.htm and

http://www.bpa.gov/corporate/kgp/bfai/bfai.htm.

ADDRESSES: Copies of the BPI or BFAI may be obtained by sending a check for the proper amount to the Head of the Contracting Activity, Routing CC, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208–3621.

FOR FURTHER INFORMATION CONTACT: The Manager, Corporate Communications, 1–800–622–4519.

SUPPLEMENTARY INFORMATION: BPA was established in 1937 as a Federal Power Marketing Agency in the Pacific Northwest. BPA operations are financed from power revenues as opposed to annual appropriations. Its purchasing operations are conducted under 16 U.S.C. 832 *et seq.* and related statutes, pursuant to these special authorities, the BPI is promulgated as a statement of purchasing policy and as a body of interpretative regulations governing the conduct of BPA purchasing activities. It is significantly different from the Federal Acquisition Regulation, and reflects BPA's private sector approach to purchasing the goods and services that it requires. BPA's financial assistance operations are conducted under 16 U.S.C. 832 *et seq.*, and 16 U.S.C. 839 *et seq.* The BFAI express BPA's financial assistance policy. The BFAI also comprise BPA's rules governing implementation of the principles

provided in the following OMB circulars:

A–21 Cost principles applicable to grants, contracts, and other agreements within institutions of higher education.
A–87 Cost principles applicable to grants, contracts, and other agreements with State and local governments.
A–102 Uniform administrative requirements for grants in aid to State and local governments, and the common rule.
A–110 Grants and agreements with institutions of higher education, hospitals and other nonprofit organizations.
A–122 Cost principles applicable to grants, contracts, and other agreements with nonprofit organizations.
A–133 Audits of States, Local Governments and Non-Profit Organizations.

BPA's solicitations include notice of applicability and availability of the BPI and the BFAI, as appropriate, for the information of offerors on particular purchases or financial assistance transactions.

Issued in Portland, Oregon, on September 26, 2000.

Kenneth R. Berglund,

Manager, Contracts and Property Management.

[FR Doc. 00–25923 Filed 10–6–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–591–000]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

October 3, 2000.

Take notice that on September 29, 2000, ANR Pipeline Company (''ANR'') tendered for filing, as part of its FERC Gas Tariff, Second Revised Volume No. 1, the Fourth Revised Sheet No. 45E.01, to be effective November 1, 2000.

ANR states that the purpose of this filing is to designate in its tariff a new point eligible for service under its existing Rate Schedule IPLS.

ANR states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boerger,

Secretary.

[FR Doc. 00–25854 Filed 10–6–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–589–000]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

October 3, 2000.

Take notice that on September 29, 2000, ANR Pipeline Company (ANR) tendered for filing, as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following sheets to be effective October 1, 2000.

Primary Proposal

Forty-fourth Revised Sheet No. 8
Forty-fourth Revised Sheet No. 9
Forty-third Revised Sheet No. 13
Fifty-third Revised Sheet No. 18

Alternate Proposal

Alternate Forty-fourth Revised Sheet No. 8
Alternate Forty-fourth Revised Sheet No. 9
Alternate Forty-third Revised Sheet No. 13
Alternate Fifty-third Revised Sheet No. 18

ANR states that this filing is being submitted by ANR for the purpose of recovery certain gas supply realignment (GSR) costs incurred as a result of restructuring under Order No. 636. This filing includes both a primary and an alternative set of tariff sheets. In its primary case, which is ANR's preferred case, ANR seeks to implement a GSR surcharge of $0.007, applicable to each Dth of MDQ, over a three (3) year period. In the alternative case, ANR proposes to collect a GSR surcharge of $0.018 per Dth over a 1 year period, resulting in lower interest costs to its customers, and a lower overall recovery amount.

ANR states that copies of the filing have been mailed to each of ANR's Second Revised Volume No. 1 customers, and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–25858 Filed 10–6–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–596–000]

Colorado Interstate Gas Company; Notice of Tariff Filing

October 3, 2000.

Take notice that on September 29, 2000, Colorado Interstate Gas Company (CIG), tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed in Appendix A to the filing, to be effective March 27, 2000.

CIG states that tariff sheets reflect the change in Right-of-First Refusal provisions permitted by the Commission's Order No. 637, 637–A and 637–B (collectively referred to as Order No. 637). Specifically, effective on or after March 27, 2000, the firm shipper's contract must be for service for twelve consecutive months or more at applicable maximum rate for that service, except that a contract for more than one year, for a service which is not available for 12 consecutive months, would be subject to the Right-of-First Refusal.

CIG also states it is making some clarifications concerning incremental rates and a shipper not having the right

to exercise the right of first refusal for a geographic portion of its agreement.

CIG further states that copies of this filing have been served on CIG's jurisdictional customers and public bodies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–25857 Filed 10–6–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–602–000]

Dominion Transmission Inc.; Notice of Proposed Changes in FERC Gas Tariff

October 3, 2000.

Take notice that on September 29, 2000, Dominion Transmission Inc. (DTI), tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, with an effective date of November 1, 2000:

First Revised Sheet No. 31
First Revised Sheet No. 32
First Revised Sheet No. 33
First Revised Sheet No. 34
First Revised Sheet No. 35
First Revised Sheet No. 37

DTI states that the purpose of this filing is to comply with Article VII, Section G, of the August 31, 1998, Stipulation and Agreement in Docket Nos. RP97–406, *et al.,* approved by the Commission in CNG Transmission Corporation, 85 FERC ¶ 61,261 (1998). That settlement provides for the phased conversion of firm storage services under Rate Schedule GSS–II, to corresponding services under Rate Schedule GSS and Rate Schedule FT (FT–GSS). Article VII, Section G permits DTI to implement base rate changes to reflect each phase of the conversion.

DTI states that copies of this letter of transmittal and enclosures are being served upon DTI's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with a Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–25862 Filed 10–6–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–579–000]

Iroquois Gas Transmission System, L.P.; Notice of Filing of Deferred Asset Surcharge Report

October 3, 2000.

Take notice that on September 29, 2000, Iroquois Gas Transmission System, L.P. (Iroquois) tendered for filing its Deferred Asset Surcharge report covering the period commencing November 1, 2000.

Iroquois states that this report is filed pursuant to part 154 of the Commission's regulations and section 12.3 of the General Terms and Conditions of its tariff. Iroquois further states that the report reflects no change in the Deferred Asset Surcharge for the period commencing November 1, 2000.

Iroquois states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before October 11, 2000. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–25839 Filed 10–6–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–580–000]

Iroquois Gas Transmission System, L.P.; Notice of Proposed Changes in FERC Gas Tariff

October 3, 2000.

Take notice that on September 29, 2000, Iroquois Gas Transmission System, L.P. (Iroquois) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, First Revised Sheet No. 4A., with an effective date of November 1, 2000.

Iroquois states that pursuant to Part 154 of the Commission's regulations and section 12.5 of the General Terms and Conditions of its tariff, it is filing First Revised Sheet No. 4A and supporting workpaper as part of its annual Transportation Cost Rate Adjustment filing to reflect changes in Account No. 858 costs for the twelve month period commencing November 1, 2000.

Iroquois states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's

Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–25847 Filed 10–6–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–584–000]

Mississippi River Transmission Corporation, Notice of Compliance Filing

October 3, 2000.

Take notice that on September 29, 2000, Mississippi River Transmission Corporation (MRT) filed with the Commission its annual fuel adjustment filing pursuant to Section 24.1(a) of the General Terms and Conditions of MRT's FERC Gas Tariff, Third Revised Volume No. 1. Requesting an effective date of November 1, 2000, MRT filed the following tariff sheets:

Thirty Sixth Revised Sheet No. 5
Thirty Sixth Revised Sheet No. 6
Thirty Third Revised Sheet No. 7
Twelfth Revised Sheet No. 8

MRT states that the purpose of this filing is to adjust the Fuel Use and Loss Percentages under its Rate Schedules FTS, SCT, ITS, FSS and ISS.

MRT further states that a copy of this filing is being mailed to each of MRT's customers and to the state commissions of Arkansas, Illinois and Missouri.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–25843 Filed 10–6–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00—610–000]

National Fuel Gas Supply Corporation; Notice of Tariff Filing

October 3, 2000.

Take notice that on September 29, 2000, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following tariff sheet to become effective October 1, 2000.

Twenty-Seventh Revised Sheet No. 9

National asserts that the purpose of this filing is to comply with the Commission's order issued February 16, 1996, in Docket Nos. RP94–367–000, *et al.* Under Article I, Section 4, of the settlement approved in that order, National must redetermine quarterly the Amortization Surcharge to reflect revisions in the Plant to be Amortized, interest and associated taxes, and a change in the determinants. The recalculation produced an Amortization Surcharge of 7.46 cents per dth.

Further, National states that under Article II, Section 2, of the settlement, it is required to recalculate the maximum Interruptible Gathering (''IG'') rate monthly and to charge that rate on the first day of the following month if the result is an IG rate more than 2 cents above or below the IG rate as calculated under Section 1 of Article II. The recalculation produced an IG rate of 27 cents per dth.

National Fuel states that copies of filing has been served upon all customers on the service list and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–25860 Filed 10–6–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–614–000]

Panhandle Eastern Pipe Line Company; Notice of Proposed Changes In FERC Gas Tariff

October 3, 2000.

Take notice that on September 29, 2000, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, to become effective November 1, 2000.

Panhandle states that this filing is made in accordance with Section 24 (Fuel Reimbursement Adjustment) of the General Terms and Conditions in Panhandle's FERC Gas Tariff, First Revised Volume No. 1. The revised tariff sheets filed herewith reflect the following changes to Fuel Reimbursement Percentages:

(1) A 0.07% increase change in the Gathering Fuel Reimbursement Percentage;

(2) A 0.07% increase in the Field Zone Fuel Reimbursement Percentage;

(3) A 0.01% increase in the Market Zone Fuel Reimbursement Percentage;

(4) A (0.02%) decrease in the Injection and a (0.02%) decrease in the Withdrawal Field Area Storage Reimbursement Percentages; and

(5) A (0.02%) decrease in the Injection and a (0.02%) decrease in the Withdrawal Market Area Storage Reimbursement Percentages.

Panhandle further states copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–25859 Filed 10–6–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–058]

Reliant Energy Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

October 3, 2000.

Take notice that on September 29, 2000, Reliant Energy Gas Transmission Company (REGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheet to be effective October 1, 2000:

Third Revised Sheet No. 8I

REGT state that the purpose of this filing is to reflect the expiration of an existing negotiated rate contract.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–25845 Filed 10–6–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–611–000]

Sea Robin Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

October 3, 2000.

Take notice that on September 29, 2000, Sea Robin Pipeline Company (Sea Robin) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheet to be effective November 1, 2000:

Sixth Revised Sheet No. 30a

Sea Robin states that the purpose of this filing, made in accordance with the provisions of Section 154.204 of the Commission's Regulations, is to reflect a reduction in the standard fuel percentage in Section 5.1(b) of the General Terms and Conditions.

Sea Robin further states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–25861 Filed 10–6–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–573–000]

Southern Natural Gas Company; Notice of Refund Report

October 3, 2000.

Take notice that on September 27, 2000, Southern Natural Gas Company, as successor-in-interest to South Georgia Natural Gas Company (Southern Natural), tendered for filing a report of refunds totaling $551,679 to true up fuel over and under collection for the 15-month period ending July 31, 2000. These refunds are allocated among all shippers based on deliveries for the same 15-month period.

Southern Natural states that copies of the filing are being mailed to all shippers and interested state commissioners for the South Georgia facilities.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before October 11, 2000. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–25848 Filed 10–6–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–615–00]

Southwest Gas Storage Company; Notice of Proposed Changes in FERC Gas Tariff

October 3, 2000.

Take notice that on September 29, 2000, Southwest Gas Storage Company (Southwest) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheet proposed to become effective November 1, 2000.

Second Revised Sheet No. 5

Southwest states that this filing is made in accordance with Section 16 (Fuel Reimbursement Adjustment) of the General Terms and Conditions in Southwest's FERC Gas Tariff, First Revised Volume No. 1. The Fuel Reimbursement Adjustment filed herewith reflects the following Fuel Reimbursement Percentages: (1) West Area Storage Facilities Injection 1.42% and Withdrawal 0.65%; and (2) East Area Storage Facilities Injection 2.43% and Withdrawal 1.17%.

Southwest further states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–25918 Filed 10–06–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–578–000]

Transwestern Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

October 3, 2000.

Take notice that on September 29, 2000, Transwestern Pipeline Company (Transwestern), tendered for filing to become part of Transwestern's FERC Gas Tariff, Second Revised Volume No. 1, Eighth Revised Sheet No. 5B.03, to be effective November 1, 2000.

Pursuant to section 25 of the General Terms and Conditions of Transwestern's FERC Gas Tariff, Transwestern is filing a tariff sheet which sets forth the new TCR II Reservation Surcharges that Transwestern proposes to put into effect on November 1, 2000.

Transwestern states that copies of the filing were served upon Transwestern's customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NW., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–25841 Filed 10–6–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–581–000]

Transwestern Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

October 3, 2000.

Take notice that on September 29, 2000, Transwestern Pipeline Company (Transwestern), tendered for filing to become part of Transwestern's FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet proposed to become effective on November 1, 2000:

Eleventh Revised Sheet No. 5B.02

Transwestern's Stipulation and Agreement filed on May 2, 1995, in Docket Nos. RP95–271 *et al.,* as amended by Transwestern's Stipulation and Agreement filed on May 21, 1996, provided for adjustments to the Settlement Base Rates (SBRs) beginning November 1, 1998.

Transwestern states that the purpose of this filing is to set forth the factors and calculations used in determining the adjustments to the SBRs and to revise the SBRs to be effective November 1, 2000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to be come a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–25842 Filed 10–6–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–249–002]

Transwestern Pipeline Company; Notice of Compliance Filing

October 3, 2000.

Take notice that on September 29, 2000, Transwestern Pipeline Company (Transwestern), tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following sheet to be effective September 15, 2000:

Second Revised Volume No. 1
2 Substitute Original Sheet No. 97

Transwestern states that this filing is made to comply with the Commission's September 15, 2000 order accepting, subject to conditions, the tariff sheets filed by Transwestern in this proceeding.

Transwestern states that copies of the filing were served upon Transwestern's customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Davis P. Boergers,

Secretary.

[FR Doc. 00–25844 Filed 10–6–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–608–000]

Trunkline Gas Company; Notice of Proposed Changes in FERC Gas Tariff

October 3, 2000.

Take notice that on September 29, 2000, Trunkline Gas Company (Trunkline) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheet to be effective November 1, 2000:

Third Revised Sheet No. 12A

Trunkline states that the purpose of this filing is to eliminate the minimum gathering rate under Rate Schedule TABS–1.

Trunkline states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–25851 Filed 10–6–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–607–000]

Trunkline Gas Company; Notice of Proposed Changes in FERC Gas Tariff

October 3, 2000.

Take notice that on September 29, 2000, Trunkline Gas Company (Trunkline) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed in Appendix A attached to the filing, to become effective November 1, 2000.

Trunkline states that this filing is being made in accordance with Section 22 (Fuel Reimbursement Adjustment) of Trunkline's FERC Gas Tariff, First Revised Volume No. 1. The revised tariff sheets listed on Appendix A reflect: a 0.62% increase (Field Zone to Zone 2), a 0.57% increase (Zone 1A to Zone 2), a 0.34% increase (Zone 1B to Zone 2), a 0.14% increase (Zone 2 only), a 0.68% increase (Field Zone to Zone 1B), a 0.63% increase (Zone 1A to Zone 1B), a 0.40% increase (Zone 1B only), a 0.48% increase (Field Zone to Zone 1A), a 0.43% increase (Zone 1A only) and a 0.25% increase (Field Zone only) to the currently effective fuel reimbursement percentages.

Trunkline states that copies of this filing are being served on all affected shippers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–25855 Filed 10–6–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–585–000]

Vector Pipeline L.P.; Notice of Proposed Changes in FERC Gas Tariff

October 3, 2000.

Take notice that on September 29, 2000, Vector Pipeline L.P. (Vector), tendered for filing original and revised pro forma tariff sheets to its FERC Gas Tariff, Original Volume No. 1, to become effective upon issuance of a Commission order.

Vector states that the purpose of this filing is to submit tariff sheets in compliance with Commission requirements in Order Nos. 637, *et seq.*

Vector states that it has tendered pro forma tariff sheets to address the

following matters, as required in Order No. 637; segmentation and flexible receipt and delivery points, penalties and penalty crediting, operational flow orders, and capacity release.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before October 30, 2000. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–25845 Filed 10–6–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–586–000]

Vector Pipeline L.P.; Notice of Proposed Changes in FERC Gas Tariff

October 3, 2000.

Take notice that on September 29, 2000, Vector Pipeline L.P. (Vector), tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed in Appendix A to the filing, to become effective November 1, 2000.

Vector states that the purpose of this filing is to propose certain new services and to place into effect its preferred method of dealing with overrun quantities and imbalances. Vector requests any and all waivers of the Commission's regulations that may be required to place the proposed tariff into effect as requested.

Vector states that it is proposing three new services, a park and loan service, a title transfer tracking service, and a management balancing service. Vector states that the proposed interruptible park and loan service in Rate Schedule PALS–1 is intended as a means of dealing with shipper imbalances in preference to the imposition of penalties. Whenever operationally possible, Vector will offer shippers the option of either parking or loaning gas, on an interruptible basis, under Rate Schedule PALS–1. The proposed rate for PALS–1 service is a maximum of $0.2556 per Dth and a minimum rate of $0.00 per Dth. The maximum PALS–1 rate is the same as Vector's maximum interruptible rate for Zone 2 service (*i.e.,* service from Milepost 0 to the terminus of the pipeline at Milepost 333), which is the 100% load factor equivalent of Vector's Zone 2 firm rate under Rate Schedule FT–1. Vector may choose to discount the PALS–1 rate, where market circumstances warrant, on a not unduly discriminatory basis.

Vector states that it also is offering title transfer tracking service in Rate Schedule TTS under which Vector follows the trades of gas supply effected by shippers and others who wish to use the Vector system as a trading mart. Such changes in gas ownership may take place at any point on the Vector system that has been designated by the TTS customer and accepted by Vector. The proposed rate for TTS service is a maximum of $0.01 per Dth and a minimum of $0.00 per Dth, which reflects anticipated operation and maintenance (O&M) costs that Vector will incur in order to render the service. Vector may choose to discount the TTS rate, where market circumstances warrant, on a not unduly discriminatory basis.

Vector states that it is offering a management of balancing agreement service, in Rate Schedule MBA, under which shippers have the opportunity to contract with third parties for imbalance management. The MBA service allows a gas customer, which can be a Vector shipper or an end-user connected to the Vector system, to contract with a third party for balancing, with Vector managing the balancing on behalf of the balancing provider. This service allows the balancing customer to vary its takes of gas on an hourly basis different from the uniform requirement in the tariff while maintaining the overall integrity of the system by adjusting the gas takes of the balancing provider to compensate. For this reason, the balancing provider must be able to provide Vector with gas on a firm basis. Vector will manage the balancing service for the balancing provider. The rate Vector proposes to charge for this administrative service is a maximum of $0.02 per Dth and a minimum of $0.00 per Dth, reflecting anticipated operation and maintenance (O&M) costs that Vector states it will incur in order to render the service. Vector may choose to discount the MBA rate, where market circumstances warrant, on a not unduly discriminatory basis.

With respect to imbalance tolerances, Vector states that it has incorporated the Commission's requirement that imbalances which do not cause system problems should not incur a penalty. Thus, as long as a shipper's imbalance does not contribute—together with the imbalances of all other shippers on the system—to a variance of 5% from the target line pack (*i.e.,* the optimum level needed for system operations on any given day), the shipper incurs no imbalance charge. If, however, these conditions are not present, a shipper—in a noncritical period—could be assessed an imbalance charge of $0.10 per Dth for that portion of shipper's net imbalance that exceeds the greater of 5% or 100 Dth. Where a shipper has created an imbalance and failed to resolve it through available means during an operational flow order (OFO) period, imbalance charges are more severe, starting at $25 per Dth plus a daily index price for imbalances in the 3% to 7% range. Vector states it has provided for the netting and trading of imbalances.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–25849 Filed 10–6–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MT00–18–000]

Williston Basin Interstate Pipeline Company; Notice of Compliance Filing

October 3, 2000.

Take notice that on September 29, 2000, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheet, with an effective date of September 29, 2000:

Thirteenth Revised Sheet No. 187

Williston Basin states that it is filing the proposed revision to its Tariff to reflect changes to the titles of two officers and/or board members currently listed in Section 7.1.1 of the General Terms and Conditions of Williston Basin's Tariff. Lester H. Loble was recently promoted from General Counsel and Secretary to Vice President, General Counsel and Secretary and Warren L. Robinson was promoted from Vice President, Treasurer and Chief Financial Officer to Executive Vice President, Treasurer and Chief Financial Officer.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–25850 Filed 10–6–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–599–000]

Williston Basin Interstate Pipeline Company; Notice of Tariff Filing

October 3, 2000.

Take notice that on September 29, 2000, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, First Revised Sheet No. 3581, with an effective date of September 29, 2000.

Williston Basin states that as of July 31, 2000 it had a zero balance in FERC Account No. 191. As a result, Williston Basin will neither refund nor bill its former sales customers for any amounts under the conditions of Section No. 39.3.1 of its FERC Gas Tariff.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–25853 Filed 10–6–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–592–000]

Wyoming Interstate Company, Ltd.; Notice of Tariff Filing

October 3, 2000.

Take notice that on September 29, 2000, Wyoming Interstate Company, Ltd. (WIC), tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 2, the tariff sheets listed in Appendix A to the filing, to be effective March 27, 2000.

WIC states these tariff sheets reflect the change in right-of-First Refusal provisions permitted by the Commission's Order No. 637,637A and 637B (Collectively referred to as Order No. 637). Specifically, effective on or after March 27, 2000, the firm shipper's contract must be for service for twelve consecutive months or more at applicable maximum rate for that service, except that a contract for more than one year, for a service which is not available for 12 consecutive months, would be subject to the Right-of-First Refusal. WIC also states it is making some clarifications concerning incremental rates and a shipper not having the right to exercise the right of first refusal for a geographic portion of its agreement.

WIC further states that copies of this filing have been served on WIC's jurisdictional customers and public bodies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–25856 Filed 10–6–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–594–000]

Young Gas Storage Company, Ltd.; Notice of Tariff Filing

October 3, 2000.

Take notice that on September 29, 2000, Young Gas Storage Company, Ltd. (Young), tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed in Appendix A to the filing, to be effective March 27, 2000.

Young states these tariff sheets reflect the change in Right-of-First Refusal provisions permitted by the Commission's Order No. 637, 737A and 637B (collectively referred to as Order No. 637). Specifically, effective on or after March 27, 2000, the firm shipper's contract must be for service for twelve consecutive months or more at the applicable maximum rate for that service, except that a contract for more than one year, for a service which is not available for twelve consecutive months would also be subject to the Right-of-First Refusal. Young also states it is making a clarification concerning incremental rates.

Young further states that copies of this filing have been served on Young's jurisdictional customers and public bodies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–25852 Filed 10–6–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–441–023, et al.]

Southern California Edison Company, et al.; Electric Rate and Corporate Regulation Filings

October 2, 2000.

Take notice that the following filings have been made with the Commission:

1. Southern California Edison Company

[Docket No. ER98–441–023]

Take notice that on September 27, 2000, El Segundo Power, LLC tendered for filing its refund compliance report in the above-captioned docket.

The compliance report has been served on the California ISO, SCE, the EOB, and the CPUC.

Comment date: October 18, 2000, in accordance with Standard Paragraph E at the end of this notice.

2. Western Resources, Inc.

[Docket No. ER00–3445–003]

Take notice that on September 27, 2000, Western Resources, Inc. (WR), tendered for filing an amendment to its previous filings in this proceeding. The amendment includes an Order No. 614 compliant version of the Electric Power Supply Agreement (Agreement) between WR and the City of Toronto, Kansas. WR states that this agreement extends the term of this agreement until March 14, 2010.

A copy of this filing was served upon the City of Toronto, Kansas.

Comment date: October 18, 2000, in accordance with Standard Paragraph E at the end of this notice.

3. Dunkirk Power, LLC, Huntley Power, LLC and Oswego Harbor, LLC

[Docket No. EL00–113–000]

Take notice that on September 22, 2000, Dunkirk Power, LLC, Huntley Power, LLC and Oswego Harbor, LLC (collectively NRG), all affiliates of NRG Energy, Inc., submitted a Petition for Declaratory Order requesting that the Commission issue an order declaring that NRG's electric generation facilities, have and have had, the right to treat station power as negative generation. NRG further requests that the Commission issue an order declaring that Niagara Mohawk Power Company cannot (a) require any of NRG's generation facilities to obtain station power under a retail tariff or (b) resort to or utilize state law self-help procedures to bypass the Commission's jurisdiction, terminate station power, and shut down any NRG generation facility. NRG further requests that the Commission issue an interim order preventing Niagara Mohawk from terminating station power for any NRG generation facility pending resolution of NRG's Petition for Declaratory Order.

Comment date: October 20, 2000, in accordance with Standard Paragraph E at the end of this notice.

4. Carolina Power & Light Company

[Docket No. ER00–3537–001]

Take notice that Carolina Power & Light Company (CP&L), on September 27, 2000, tendered for filing Substitute First Revised Sheet No. 137 to First Revised Volume No. 3 that corrects an error in the minimum power factor.

Copies of the filing were served upon the public utility's jurisdictional customers, North Carolina Utilities Commission and South Carolina Public Service Commission.

Comment date: October 18, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. Northeast Utilities Service Company

[Docket No. ER00–3742–001]

Take notice that on September 27, 2000, Northeast Utilities Service Company (NUSCO), on behalf of The Connecticut Light and Power Company (CL&P) and Western Massachusetts Electric Company (WMECO), tendered for filing conformed copies of two agreements dated April 10, 2000, which were filed with the Commission on September 22, 2000, under which the Companies have agreed to sell and deliver to Constellation Power Source, Inc. (CPS) capacity and energy and associated ancillary services to which the Companies are entitled under sixteen power purchase agreements.

NUSCO requests that this filing be accepted by December 1, 2000.

Comment date: October 18, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. Central Illinois Light Company

[Docket No. ER00–3759–000]

Take notice that on September 27, 2000, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61602, tendered for filing with the Commission a substitute Index of Point-To-Point Transmission Service Customers under its Open Access Transmission Tariff and two service agreements for one new customer, Madison Gas & Electric.

CILCO requested an effective date of August 28, 2000, for the service agreements.

Copies of the filing were served on the affected customer and the Illinois Commerce Commission.

Comment date: October 18, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. Illinois Power Company

[Docket No. ER00–3761–000]

Take notice that on September 27, 2000, pursuant to Section 35.12 of the Commission's Regulations, 18 CFR 35.12, Illinois Power Company (Illinois Power) tendered for filing a fully executed Service Agreement for Network Integration Transmission Service and a fully executed Network Operating Agreement (collectively, the Agreements) between MidAmerican Energy Company and Illinois Power. Under the Agreements, Illinois Power may provide network services to MidAmerican Energy Company in accordance with Illinois Power's FERC Electric Tariff.

Illinois Power has requested that the Commission accept the fully executed Agreements and that the Agreements become effective as of September 1, 2000.

Illinois Power has served a copy of this filing upon the Illinois Commerce Commission and MidAmerican Energy Company.

Comment date: October 18, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. PJM Interconnection, L.L.C.

[Docket No. ER00–3762–000]

Take notice that on September 27, 2000, PJM Interconnection, L.L.C. (PJM), tendered for filing an executed umbrella service agreement for network integration transmission service under the PJM Open Access Transmission Tariff with Edison Mission Marketing & Trading, Inc., (Edison Mission).

Copies of this filing were served upon Edison Mission and the state commissions within the PJM control area.

Comment date: October 18, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. PJM Interconnection, L.L.C.

[Docket No. ER00–3763–000]

Take notice that on September 27, 2000, PJM Interconnection, L.L.C. (PJM), tendered for filing five executed interconnection service agreements between PJM and PPL Susquehanna, LLC, Susquehanna Electric Company, Constellation Power Source Generation, Inc., Calvert Cliffs Nuclear Power Plant, Inc, and CinCap VI, L.L.C.

PJM requests a waiver of the Commission's 60-day notice requirement to permit the effective dates agreed to by the parties.

Copies of this filing were served upon each of the parties to the agreements the state regulatory commissions within the PJM control area.

Comment date: October 18, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. Jersey Central Power & Light Company

[Docket No. ER00–3764–000]

Take notice that on September 27, 2000, Jersey Central Power & Light Company (Jersey Central), tendered for filing amendments to the Interconnection Agreement by and between AmerGen Energy Company, L.L.C. and Jersey Central.

Copies of the filing were served upon AmerGen and regulators in the State of New Jersey.

Comment date: October 18, 2000, in accordance with Standard Paragraph E at the end of this notice.

11. Entergy Services, Inc.

[Docket No. ER00–3765–000]

Take notice that on September 27, 2000, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (collectively, the Entergy Operating Companies), tendered for filing a Non-Firm Point-To-Point Transmission Service Agreement and a Short-Term Firm Point-To-Point Transmission Service Agreement both between Entergy Services, Inc., as agent for the Entergy Operating Companies, and Occidental Chemical Corporation.

Comment date: October 18, 2000, in accordance with Standard Paragraph E at the end of this notice.

12. Canal Electric Company

[Docket No. ER00–3766–000]

Take notice that on September 28, 2000, Canal Electric Company (Canal), tendered for filing the restated sixth amendment (Restated Sixth Amendment) to the Power Contract between Canal and its retail affiliates Cambridge Electric Light Company (Cambridge) and Commonwealth Electric Company (Commonwealth) (Canal Rate Schedule FERC No. 33, the ''Seabrook Power Contract'').

The Restated Sixth Agreement provides for a buy down of the Seabrook Power Contract by Cambridge and Commonwealth in furtherance of their efforts to mitigate transition costs, in compliance with the requirements of the Massachusetts Electric Industry Restructuring Act of 1997. Under the Restated Sixth Amendment, Cambridge and Commonwealth each would make a lump-sum payment to Canal, in consideration for a reduction to the Gross Plant Investment account under the Seabrook Power Contract. Reducing the Gross Plant Investment will result in a lower Demand Component under the pricing for the Seabrook Power Contract. With the approval of the Restated Sixth Amendment, Cambridge will pay Canal the amount of $29,260,000, and Commonwealth will pay Canal the amount of $117,481,000 for a reduction in the Gross Plant Investment in the amount of $146,741,000. The Restated Sixth Amendment also would allow for changes in the schedule of decommissioning costs allocable under the Seabrook Power Contract without the need for an amendment every time a change in such schedule is determined by a regulatory agency with jurisdiction over setting such costs.

Canal has requested approval of the Restated Sixth Amendment for effect July 1, 2000.

Comment date: October 18, 2000, in accordance with Standard Paragraph E at the end of this notice.

13. Arizona Public Service Company

[Docket No. ER00–3768–000]

Take notice that on September 28, 2000, Arizona Public Service Company (APS), tendered for filing a revised rate schedule, APS–FERC Rate Schedule No. 192 in compliance with FERC Order in this docket issued September 13, 2000.

A copy of this filing has been served on the Arizona Corporation Commission and the City of Williams.

Comment date: October 18, 2000, in accordance with Standard Paragraph E at the end of this notice.

14. Potomac Electric Power Company

[Docket No. ER00–3769–000]

Take notice that on September 28, 2000, Potomac Electric Power Company (Pepco), tendered for filing a service agreement pursuant to Pepco FERC Electric Tariff, Original Volume No. 5, entered into between Pepco and H.Q. Energy Services (U.S.) Inc.

An effective date of September 1, 2000, for this service agreement, with waiver of notice, is requested.

Comment date: October 18, 2000, in accordance with Standard Paragraph E at the end of this notice.

15. Commonwealth Edison Company

[Docket No. ER00–3770–000]

Take notice that on September 28, 2000, Commonwealth Edison Company (ComEd), tendered for filing Five Non-Firm Transmission Service Agreements

(Agreements) with the City of Chicago (CHGO), Indeck Energy Services, Inc. (Indeck), The Legacy Energy Group, LLC (Legacy), NRG Power Marketing Inc. (NRG), and SCANA Energy Marketing, Inc. (SCANA), and eleven Short-Term Firm Transmission Service Agreements with Automated Power Exchange, Inc. (APX), Carolina Power & Light Company (CPL), CHGO, Florida Power & Light Company (FPL), FPL Energy Power Marketing, Inc. (FPLM), Indeck, Legacy, NRG, SCANA, TXU Energy Trading Company (TXU), and Wisconsin Public Power Inc. (WPPI) under the terms of ComEd's Open Access Transmission Tariff (OATT).

ComEd requests an effective date of September 28, 2000 for the Agreements, and accordingly, seeks waiver of the Commission's notice requirements.

Comment date: October 18, 2000, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–25838 Filed 10–6–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–434–000]

Columbia Gulf Transmission Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed Stanton Compressor Replacement and Request for Comments on Environmental Issues

October 3, 2000.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Stanton Compressor Replacement Project, involving replacement, construction and operation of facilities by Columbia Gulf Transmission Company (Columbia Gulf) in Stanton County, Kentucky.[1] These facilities would consist of replacing an existing gas-powered turbine and compressor package with a new compressor package, constructing two small buildings to house the new compressor package and related control equipment, and constructing associated yard piping to tie-in the new compressor to the existing compressor station. This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

Summary of the Proposed Project

Columbia Gulf wants to replace an aging compressor package at its existing Stanton Compressor Station. Columbia Gulf seeks authority for the following activities:

- Abandon by removal one 12,050-horsepower (hp) gas-powered turbine compressor and driver, the related compressor and control buildings, and associated piping and valves;
- Construct and operate a new 14,470-hp gas turbine compressor package within a new prefabricated building;
- Construct a second prefabricated building to house compressor control and communication equipment; and
- Construct and operate about 2,300 feet of new 30-inch-diameter pipeline to tie-in the replacement compressor facilities with the existing station piping.

All of the proposed activities would be conducted within Columbia Gulf's existing Stanton Compressor Station yard. The location of the project facilities is shown in appendix 1.[2] The replacement would not change the design day or certificated capacity of the compressor station.

Land Requirements for Construction

Abandonment of the existing compressor package and construction of the proposed facilities would disturb about 0.7 acre of land. Following abandonment and construction activities, all disturbed areas would be stabilized and revegetated.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us[3] to discover and address concerns the public may have about proposals. We call this ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the abandonment, construction and operation of the proposed project under these general headings:

- Geology and soils
- Water resources, fisheries, and wetlands
- Vegetation and wildlife
- Air quality and noise
- Land use
- Endangered and threatened species
- Cultural resources
- Public safety

We will also evaluate possible alternatives to the proposed project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

[1] Columbia Gulf's application was filed with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

[2] The appendices referenced in this notice are not being printed in the **Federal Register.** Copies are available on the Commission's website at the ''RIMS'' link or from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, N.E., Washington, D.C. 20426, or call (202) 208–1371. For instructions on connecting to RIMS refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

[3] ''Us,'' ''we,'' and ''our'' refer to the environmental staff of the FERC's Office of Energy Projects.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section below.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal, and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send two copies of your letter to: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426.
- Label one copy of the comments for the attention of Gas Group 1, PJ–11.1.
- Reference Docket No. CP00–434–000.
- Mail your comments so that they will be received in Washington, DC on or before November 3, 2000.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor''. Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rule of Practice and Procedure (18 CFR 385.214) (see appendix 2). Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Additional information about the proposed project is available from the Commission's Office of External Affairs at (202) 208–0004 or on the FERC website (www.ferc.fed.us) using the ''RIMS'' link to information in this docket number. Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menus, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the ''CIPS'' link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the ''CIPS'' link, select ''Docket #'' from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–25863 Filed 10–6–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–455–002]

Honeoye Storage Corporation; Notice of Proposed Change in FERC Gas Tariff

October 3, 2000.

Take notice that on September 28, 2000 Honeoye Storage Corporation (Honeoye) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume 1, the following tariff sheet to be effective October 10, 2000:

First Revised Sheet No. 22B

Honeoye states that the purpose of the filing is to establish a new proposed Article XIX to the General Terms and Conditions of its Part 157 gas tariff that affords customers the right to make title transfers of top gas or cushion gas in the Honeoye Storage Field, but limits the availability of such title transfer authority of gas in place to only upon contract termination. Honeoye further requests that the Commission waive the requirements of Section 154.207 of its regulation so that revised tariff sheet may be made effective October 10, 2000 so that Honeoye may make arrangements to dispose of cushion gas and top gas which remains in the Honeoye gas field after termination of the Providence Gas Company gas storage agreement on March 31, 2000.

Honeoye states that its filing is consistent with the Commission's September 14, 2000 letter order in Docket No. RP00–455–000 which, among other matters, rejected without prejudice Honeoye's proposed tariff provision designed to grant its customers the right to make title transfers to other customers of gas which is held in the Honeoye gas field. The Commission's September 14 letter order found that the title transfer right provided more flexibility to Part 157 customers than is allowed under Commission policy. However, the Commission stated that its rejection of this provision was without prejudice to Honeoye's right to file a tariff provision limiting title transfers to only upon contract termination.

Honeoye states that copies of the filing are being mailed to Honeoye's jurisdictional customers and interested state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–25840 Filed 10–6–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting

October 4, 2000.

The following notice of meeting is published pursuant to section 3(a) of the government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C 552B:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission

DATE AND TIME: October 11, 2000, 10 a.m.

PLACE: Room 2C 888 First Street, N.E., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note: Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: David P. Boergers, Secretary, Telephone (202) 208–0400. For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

749th—Meeting October 11, 2000, Regular Meeting (10 a.m.)

Consent Agenda—Markets, Tariffs and Rates—Electric

CAE–1.
Docket# ER00–3322, 000, Delmarva Power & Light Company, Conectiv Delmarva Generation, INC., Atlantic City Electric Company, Conectiv Atlantic Generation, LLC and Conectiv Energy Supply, Inc.
Other#s ER00–1770, 001, Delmarva Power & Light Company, Conectiv Delmarva Generation, Inc., Atlantic City Electric Company, Conectiv Atlantic Generation, LLC and Conectiv Energy Supply, Inc.
ER00–3322, 001, Delmarva Power & Light Company, Conectiv Delmarva Generation, Inc., Atlantic City Electric Company, Conectiv Atlantic Generation, LLC and Conectiv Energy Supply, Inc.

CAE–2.
Docket# ER00–3412, 000, Ameren Energy Generating Company

CAE–3.
Docket# ER00–3435, 000, Carolina Power & Light Company

CAE–4.
Docket# ER00–3434, 000, Commonwealth Edison Company and Commonwealth Edison Company of Indiana

CAE–5.
Docket# ER00–3462, 000, New York Independent System Operator, Inc.

CAE–6.
Omitted

CAE–7.
Omitted

CAE–8.
Docket# ER99–3196, 000, Northeast Utilities Service Company
Other#s ER99–3196, 001, Northeast Utilities Service Company

CAE–9.
Docket# ER99–4415, 000, Illinois Power Company
Other#s ER99–4415, 001, Illinois Power Company
ER99–4415, 002, Illinois Power Company
ER99–4415, 003, Illinois Power Company
ER99–4530, 000, Illinois Power Company
ER99–4530, 001, Illinois Power Company
ER99–4530, 002, Illinois Power Company
ER99–4530, 003, Illinois Power Company
EL00–7, 000, Illinois Power Company
EL00–7, 001, Illinois Power Company
EL00–7, 002, Illinois Power Company
EL00–7, 003, Illinois Power Company

CAE–10.
Omitted

CAE–11.
Docket# ER00–851, 000, Pacific Gas and Electric Company
Other#s ER00–851, 001, Pacific Gas and Electric Company

CAE–12.
Docket# EC00–119, 000, New England Power Company

CAE–13.
Docket# EC00–98, 000, Commonwealth Edison Company
Other#s EC00–98, 001, Commonwealth Edison Company

CAE–14.
Omitted

CAE–15.
Omitted

CAE–16.
Docket# ER00–1693, 001, Montana Power Company and PP&L Montana, LLC

CAE–17.
Docket# RM95–9, 014, Open Access Same-Time Information System (Oasis) and Standards of Conduct
Other#s RM95–9, 015, Open Access Same-Time Information System (Oasis) and Standards of Conduct

CAE–18.
Docket# EL00–101, 000, New Horizon Electric Cooperative, Inc. v. Duke Power Company

CAE–19.
Omitted

CAE–20.
Omitted

CAE–21.
Docket# ER00–1, 002, Transenergie U.S. LTD.
Other#s ER00–1, 003, Transenergie U.S. LTD.

CAE–22.
Docket# RM00–7, 000, Revision of Annual Charges Assessed to Public Utilities

CAE–23.
Docket# EL00–62, 005, ISO New England, Inc.

CAE–24.
Docket# EL00–90, 000, Morgan Stanley Capital Group, Inc. v. New York Independent System Operator, Inc.

Consent Agenda—Markets, Tariffs and Rates—Gas

CAG–1.
Docket# RP00–542, 000, ANR Pipeline Company

CAG–2.
Omitted

CAG–3.
Omitted

CAG–4.
Docket# RP96–389, 007, Columbia Gulf Transmission Company

CAG–5.
Docket# RP00–538, 000, Young Gas Storage Company, Ltd.

CAG–6.
Docket# PR00–16, 000, Transok, LLC

CAG–7.
Docket# RP98–52, 038, Williams Gas Pipelines Central, Inc.

CAG–8.
Docket# RP97–375, 000, Wyoming Interstate Company, Ltd.

CAG–9.
Docket# RP93–109, 017, Williams Gas Pipelines Central, Inc.

CAG–10.
Docket# PR00–11, 001, Humble Gas Pipeline Company

CAG–11.
Docket# RP00–540, 000, East Tennessee Natural Gas Company

CAG–12.
Docket# RP00–558, 000, Overthrust Pipeline Company

Consent Agenda—Energy Projects—Hydro

CAH–1.
Docket# P–2556, 016, FPL Energy Maine Hydro LLC
Other#s P–2557, 013, FPL Energy Maine Hydro LLC
P–2559, 014, FPL Energy Maine Hydro LLC

CAH–2.
Omitted

CAH–3.
Docket# P–10847, 003, Creamer and Noble Energy, Inc.

CAH–4.
Docket# P–1986, 009, Oregon Trail Electric Consumers Cooperative, Inc.

Consent Agenda—Energy Projects—Certificates

CAC–1.
Docket# CP00–426, 000, Oneok Midstream Pipeline, Inc.

CAC–2.
Docket# CP97–256, 007, K N Wattenberg Transmission Limited Liability Company

Energy Projects—Hydro Agenda

H–1.
Reserved

Energy Projects—Certificates Agenda

C–1.
Reserved

Markets, Tariffs and Rates—Electric Agenda

E–1.
Docket# RM98–4, 000, Revised Filing Requirements Under Part 33 of the Commission's Regulations
Order on Final Rule.

Markets, Tariffs and Rates—Gas Agenda

G–1.

Reserved

David P. Boergers,

Secretary.

[FR Doc. 00–26038 Filed 10–5–00; 12:52 pm]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6883–4]

Clean Water Act Section 303(d): Availability of Total Maximum Daily Loads (TMDLs)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This document announces the availability for comment of the administrative record file for six TMDLs prepared by EPA Region 6 for waters listed in Louisiana's Mermentau and Vermilion/Teche river basins, under section 303(d) of the Clean Water Act (CWA). EPA prepared these TMDLs in response to a Court Order dated October 1, 1999, in the lawsuit *Sierra Club, et al.* v. *Clifford et al.,* No. 96–0527, (E.D. La. Oct. 1, 1999). Under this court order, EPA is required to prepare TMDLs when needed for waters on the Louisiana 1998 section 303(d) list by December 31, 2007.

DATES: Comments on the six TMDLs must be submitted in writing to EPA on or before November 9, 2000.

ADDRESSES: Comments on the six TMDLs should be sent to Ellen Caldwell, Environmental Protection Specialist, Water Quality Protection Division, U.S. Environmental Protection Agency Region 6, 1445 Ross Ave., Dallas, TX 75202–2733. For further information, contact Ellen Caldwell at (214) 665–7513. The administrative record file for these TMDLs is available for public inspection at this address as well. Copies of the TMDLs and their respective calculations may be viewed at www.epa.gov/region6/water/tmdl.htm, or obtained by calling or writing Ms. Caldwell at the above address. Please contact Ms. Caldwell to schedule an inspection.

FOR FURTHER INFORMATION CONTACT: Ellen Caldwell at (214) 665–7513.

SUPPLEMENTARY INFORMATION: In 1996, two Louisiana environmental groups, the Sierra Club and Louisiana Environmental Action Network (plaintiffs), filed a lawsuit in Federal Court against the United States Environmental Protection Agency (EPA), styled *Sierra Club, et al.* v. *Clifford et al.,* No. 96–0527, (E.D. La. Oct. 1, 1999). Among other claims, plaintiffs alleged that EPA failed to establish Louisiana TMDLs in a timely manner. Discussion of the court's order may be found at 65 FR 54032 (September 6, 2000).

EPA Seeks Comments on Six TMDLs

By this notice EPA is seeking comment on the following six TMDLs for waters located within the Mermentau and Vermilion/Teche basins:

Subsegment	Waterbody name	Pollutant
060212	Chatlin Lake Canal and Bayou DuLac.	Fecal Coliform.
060901	Bayou Petite Anse.	Fecal Coliform.
060701	Tete Bayou	Fecal Coliform.
060703	Bayou du Portage.	Fecal Coliform.
060909	Lake Peigneur ..	Fecal Coliform.
060911	Vermilion-Teche River Basin.	Fecal Coliform.

EPA requests that the public provide to EPA any water quality related data and information that may be relevant to the calculations for these TMDLs, or any other comments relevant to these TMDLs. EPA will review all data and information submitted during the public comment period and revise the six TMDLs where appropriate. EPA will then forward the TMDLs to the Court and the Louisiana Department of Environmental Quality (LDEQ). LDEQ will incorporate the TMDLs into its current water quality management plan.

Dated: September 25, 2000.

Sam Becker,

Acting Director, Water Quality Protection Division, Region 6.

[FR Doc. 00–25930 Filed 10–6–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6883–7]

Science Advisory Board; Notification of Public Advisory Committee Meeting

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Natural Attenuation Subcommittee of the EPA Science Advisory Board's (SAB) Environmental Engineering Committee will conduct a public teleconference meeting on Wednesday October 25, 2000 from 1–3 p.m. Eastern Time. This activity began at the January 26th conference call meeting and included a face-to-face meeting August 14–15, 2000. Background, including the availability of review materials, will be found in previous notices (see 65 FR 1866–1867, January 12, 2000).

The meeting will be coordinated through a conference call connection in room 6450E Ariel Rios North (6th Floor), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC. The public is strongly encouraged to attend the meeting through a telephonic link, but may attend physically if arrangements are made with the SAB staff by noon Thursday October 19. Additional instructions about how to participate in the conference call can be obtained by calling Ms. Mary Winston at (202) 564–4538, and via e-mail at: winston.mary@epa.gov by noon Thursday, October 19.

Purpose of the Meeting: During this meeting the Subcommittee plans to consider approval of its draft report. If approved, the draft report will be forwarded to the Environmental Engineering Committee for consideration at a public face-to-face meeting planned for December.

Availability of the draft Subcommittee Report: The staff anticipates the draft report will be mailed to the Subcommittee the week of October 16; the draft will be made available to the public by Email the day after it is mailed to the Subcommittee. For email copies, please contact the Designated Federal Officer at conway.kathleen@epa.gov. A limited number of paper copies will be available from Ms. Mary Winston at (202) 564–4538, and via e-mail at: winston.mary@epa.gov.

For Further Information—Any member of the public wishing further information concerning either meeting or wishing to submit brief oral comments must contact Ms. Kathleen White Conway, Designated Federal Officer, Science Advisory Board (1400A), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone (202) 564–4559; FAX (202) 501–0582; or via e-mail at *conway.kathleen@epa.gov.* Requests for oral comments must be *in writing* (e-mail, fax or mail) and received by Ms. Conway no later than noon Eastern Time one week prior to the meeting.

Providing Oral or Written Comments at SAB Meetings

It is the policy of the Science Advisory Board to accept written public comments of any length, and to accommodate oral public comments whenever possible. The Science

Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. *Oral Comments:* In general, each individual or group requesting an oral presentation at a face-to-face meeting will be limited to a total time of ten minutes. For teleconference meetings, opportunities for oral comment will usually be limited to no more than three minutes per speaker and no more than fifteen minutes total. Deadlines for getting on the public speaker list for a meeting are given above. Speakers should bring at least 35 copies of their comments and presentation slides for distribution to the reviewers and public at the meeting. *Written Comments:* Although the SAB accepts written comments until the date of the meeting (unless otherwise stated), because this is a conference call meeting, any comments to be mailed to the Subcommittee in advance of the meeting should be received in the SAB Staff Office by noon Monday October 16. Copies in Email format will be accepted until the day before the meeting, although earlier submission is encouraged. Comments should be supplied to the appropriate DFO at the address/contact information noted above in the following formats: fifteen hard copies, one with original signature, and one electronic copy via e-mail (acceptable file format: WordPerfect, Word, or Rich Text files (in IBM–PC/Windows 95/98 format)).

General Information—Additional information concerning the Science Advisory Board, its structure, function, and composition, may be found on the SAB Website (*http://www.epa.gov/sab*) and in The FY2000 Annual Report of the Staff Director which is available from the SAB Publications Staff at (202) 564–4533 or via fax at (202) 501–0256. Committee rosters, draft Agendas and meeting calendars are also located on our website.

Meeting Access—Individuals requiring special accommodation at this meeting, including wheelchair access to the conference room, should contact Ms. Winston at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: October 3, 2000.

A. Robert Flaak,

Acting Staff Director, Science Advisory Board.

[FR Doc. 00–25932 Filed 10–6–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6883–8]

Science Advisory Board; Notification of Public Advisory Committee Meeting

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that a Committee of the US EPA Science Advisory Board (SAB) will meet on the dates and times noted below. All times noted are Eastern Standard Time. The meeting is open to the public, however, seating is limited and available on a first come basis. *Important Notice:* Documents that are the subject of SAB reviews are normally available from the originating EPA office and are not available from the SAB Office—information concerning availability of documents from the relevant Program Office is included below.

The Dioxin Reassessment Review Committee (DRRC) of the US EPA Science Advisory Board (SAB), will meet on November 1 and 2, 2000, at the Ramada Plaza Hotel Pentagon, 4641 Kenmore Avenue, Alexandria, VA. The hotel telephone number is (703) 751–4510. The meeting will begin at 8:45 a.m. on November 1 and adjourn no later than 5 p.m. on November 2.

Purpose of the Meeting

In April 1991, EPA announced that it would conduct a scientific reassessment of the potential health risks of exposure to dioxin and related compounds. The reassessment led to the publication of a multi-volume document titled ''Exposure and Human Health Reassessment of 2,3,7,8-Tetrachlorodibenzo-p-Dioxin (TCDD) and Related Compounds.'' The draft of this document was published in 1994. In 1995, this draft was reviewed by EPA's Science Advisory Board (SAB), which issued a report (EPA–SAB–EC–95–021) with the following major findings: (a) There was no need for further SAB review of health and exposure sections (Chapters 1–7) as long as EPA updated these sections with any relevant new information before finalizing them; (b) EPA should develop a new chapter on toxicity equivalence factors (TEFs) to consolidate the discussion and scientific information on the use of TEFs for dioxin and related compounds; (c) the sections addressing Dose Response Modeling (Chapter 8) and the Risk Characterization document (Chapter 9) required revision and improvement; and (d) the revised chapters on Dose Response Modeling and Risk Characterization and the new chapter on TEFs should undergo external peer review and then be brought back to the SAB for another review.

EPA subsequently revised the document, and conducted an external peer review as recommended by the SAB (please see *http://www.epa.gov/ncea/pdfs/dioxin/final.pdf* for a copy of the peer review). The Agency has now requested that the SAB review the revised reassessment document.

Charge to the Committee

The Charge asks the DRRC to respond to specific questions in the following areas: (a) Cancer effects; (b) background and population exposures; (c) children's risk; (d) relative risks of breast feeding; (e) the risk characterization summary statement; and (f) dioxin sources. The complete set of 21 Charge Questions, sorted by category, follows:

Body Burdens

(Question 1) Did EPA adequately justify its use of body burden as a dose metric for inter-species scaling? Should the document present conclusions based on daily dose?

Use of Margin of Exposure Approach

There are two questions on EPA's proposed use of a margin of exposure (MOE) approach to evaluate dioxin-related health risks.

(Question 2) Has EPA's choice of the MOE approach to risk assessment adequately considered that background levels of the dioxins have dropped dramatically over the past decade, and are continuing to decline? How might the rationale be improved for EPA's decision not to calculate an RfD/RfC, and for the recommended MOE approach for conveying risk information? Is an MOE approach appropriate, as compared to the traditional RfD/RfC? Should the document present an RfD/RfC?''

(Question 3) The SAB commented that previous dose-response modeling was too limited to biochemical endpoints (CYPIA1, IA2, * * *). Are the calculations of a range of ED_{01} body burden for noncancer effects in rodents responsive and clearly presented? Please comment on the weight of evidence interpretation of the body burden data associated with a 1% response rate for non-cancer effects that is presented in Chapter 8, Appendix I and Figure 8–1 (where EPA considers that the data best support a range estimate for ED_{01} body burdens between 10 ng/kg to 50 ng/kg).

Mechanisms and Mode of Action

Two questions concern how the Integrated Summary addresses the

mechanisms and mode of action of dioxin toxicity.

(Question 4) How might the discussion of mode of action of dioxin and related compounds be improved?

(Question 5) Despite the lack of congener-specific data, does the discussion in the Integrated Summary and Risk Characterization support EPA's inference that these effects may occur for all dioxin-like compounds, based on the concept of toxicity equivalence?

Toxicity Equivalence Factors

There are two questions that pertained specifically to the new TEF Chapter (*i.e.,* Chapter 9) in the dioxin reassessment.

(Question 6) Is the history, rationale, and support for the TEQ concept, including its limitations and caveats, laid out by EPA in a clear and balanced way in Chapter 9? Did EPA clearly describe its rationale for recommending adoption of the 1998 WHO TEFs?

(Question 7) Does EPA establish clear procedures for using, calculating, and interpreting toxicity equivalence factors?

Non-Cancer Effects

There are two questions regarding how the Integrated Summary addresses non-cancer effects.

(Question 8) Have the available human data been adequately integrated with animal information in evaluating likely effect levels for the non-cancer endpoints discussed in the reassessment? Has EPA appropriately defined non-cancer adverse effects and the body burdens associated with them? Has EPA appropriately reviewed, characterized, and incorporated the recent epidemiological evidence for non-cancer risk assessment for human populations?

(Question 9) Do reviewers agree with the characterization of human developmental, reproductive, immunological, and endocrinological hazard? What, if any, additional assumptions and uncertainties should EPA embody in these characterizations to make them more explicit?

Cancer Effects

There are three questions regarding how EPA characterized cancer effects in the Integrated Summary.

(Question 10) Do you agree with the characterization in this document that dioxin and related compounds are carcinogenic hazards for humans? Does the weight-of-the-evidence support EPA's judgement concerning the listing of environmental dioxins as a likely human carcinogen?

(Question 11) Does the document clearly present the evolving approaches to estimating cancer risk (*e.g.,* margin of exposure and the LED_{01} as a point of departure), as described in the EPA ''Proposed Guidelines for Carcinogenic Risk Assessment'' (EPA/600/P–92/003C; April 1996)? Is this approach equally as valid for dioxin-like compounds? Has EPA appropriately reviewed, characterized, and incorporated the recent epidemiological evidence for cancer risk assessment for human populations?

(Question 12) Please comment on the presentation of the range of upper bound risks for the general population based on this reassessment. What alternative approaches should be explored to better characterize quantitative aspects of potential cancer risk? Is the range that is given sufficient, or should more weight be given to specific data sources?

Background and Population Exposures

There are three questions pertaining to background and population exposures to dioxin and related compounds.

(Question 13) Have the estimates of background exposures been clearly and reasonably characterized?

(Question 14) Has the relationship between estimating exposures from dietary intake and estimating exposure from body burden been clearly explained and adequately supported? Has EPA adequately considered available models for the low-dose exposure-response relationships (linear, threshold, ''J'' shaped)?

(Question 15) Have important ''special populations'' and age-specific exposures been identified and appropriately characterized?

Children's Risk

One question addresses the issue of children's risk of dioxin exposure.

(Question 16) Is the characterization of increased or decreased childhood sensitivity to possible cancer and non-cancer outcomes scientifically supported and reasonable? Is the weight of evidence approach appropriate?

Relative Risks of Breast Feeding

(Question 17) Has EPA adequately characterized how nursing affects short-term and long-term body burdens of dioxins and related compounds?

Risk Characterization Summary Statement

(*Question 18*) Does the summary and analysis support the conclusion that enzyme induction, changes in hormone levels, and indicators of altered cellular function seen in humans and laboratory animals, represent effects of unknown clinical significance, but they may be early indicators of toxic response?

(*Question 19*) Has the short summary statement in the risk and hazard characterization on page 107 adequately captured the important conclusions, and the areas where further evaluation is needed? What additional points should be made in this short statement?

Sources

(*Question 20*) Are these sources adequately described and are the relationships to exposure adequately explained?

General Comments

(*Question 21*) Please provide any other comments or suggestions relevant to the two review documents, as interest and time allow.

Availability of Review Materials

The principal review documents (Part III: Integrated Summary and Risk Characterization for 2,3,7,8-Tetrachlorodibenzo-p-Dioxin (TCDD) and Related Compounds; Chapter 8, Dose-Response Modeling for 2,3,7,8-Tetrachlorodibenzo-p-Dioxin (TCDD) and Related Compounds; Chapter 9: Toxicity Equivalence Factors (TEFs) for Dioxin and Related Compounds; and Exposure and Health Reassessment of 2,3,7,8-Tetrachlorodibenzo-p-Dioxin (TCDD) and Related Compounds) were developed by the US EPA's Office of Research and Development, National Center for Environmental Assessment (ORD/NCEA) and are available on the Internet at the ORD/NCEA website (*http://www.epa.gov/ncea/dioxin.htm*), or by request to Ms. Linda Tuxen, phone (202) 564–3332, or by email to *tuxen.linda@epa.gov*.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information concerning this meeting or wishing to submit brief oral comments (10 minutes or less) must contact Samuel Rondberg, Designated Federal Officer, Science Advisory Board (1400A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; telephone (301) 812–2560, FAX (410) 286–2689; or via e-mail at *samuelr717@aol.com*. Requests for oral comments must be *in writing* (e-mail, fax or mail) and received by Mr. Rondberg no later than noon (EDT) on Friday, October 20, 2000. The draft meeting Agenda will be available approximately three weeks prior to the meeting on the SAB website (*www.epa.gov/sab*) or from Ms. Wanda Fields, Management Assistant, USEPA Science Advisory Board (1400A), U.S.

Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; telephone (202) 564–4539, FAX (202) 501–0582; or via e-mail at *fields.wanda@epa.gov*.

Providing Oral or Written Comments at SAB Meetings

It is the policy of the Science Advisory Board to accept written public comments of any length, and to accommodate oral public comments whenever possible. The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. *Oral Comments:* In general, each individual or group requesting an oral presentation at a face-to-face meeting will be limited to a total time of ten minutes. For teleconference meetings, opportunities for oral comment will usually be limited to no more than three minutes per speaker and no more than fifteen minutes total. Deadlines for getting on the public speaker list for a meeting are given above. Speakers should bring at least 35 copies of their comments and presentation slides for distribution to the reviewers and public at the meeting. *Written Comments:* Although the SAB accepts written comments until the date of the meeting (unless otherwise stated), written comments should be received in the SAB Staff Office at least one week prior to the meeting date so that the comments may be made available to the committee for their consideration. Comments should be supplied to the appropriate DFO at the address/contact information noted above in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file formats: WordPerfect, Word, or Rich Text files (in IBM–PC/Windows 95/98 format). Those providing written comments and who attend the meeting are also asked to bring 25 copies of their comments for public distribution.

General Information

Additional information concerning the Science Advisory Board, its structure, function, and composition, may be found on the SAB Website (*http://www.epa.gov/sab*) and in The FY1999 Annual Report of the Staff Director which is available from the SAB Publications Staff at (202) 564–4533 or via fax at (202) 501–0256. Committee rosters, draft Agendas and meeting calendars are also located on our website.

Meeting Access

Individuals requiring special accommodation at this meeting, including wheelchair access to the conference room, should contact Mr. Rondberg at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: September 22, 2000.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 00–25976 Filed 10–6–00; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 00–2253]

Public Safety National Coordination Committee

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document advises interested persons of a meeting of the Public Safety National Coordination Committee (''NCC''), which will be held in Washington, D.C. The Federal Advisory Committee Act, Public Law 92–463, as amended, requires public notice of all meetings of the NCC. This notice advises interested persons of the tenth meeting of the Public Safety National Coordination Committee.

DATES: November 2, 2000 at 9:30 a.m.–12:30 p.m.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Designated Federal Officer, Michael J. Wilhelm, (202) 418–0680, e-mail mwilhelm@fcc.gov. Press Contact, Meribeth McCarrick, Wireless Telecommunications Bureau, 202–418–0600, or e-mail mmccarri@fcc.gov.

SUPPLEMENTARY INFORMATION: Following is the complete text of the Public Notice: This Public Notice advises interested persons of the tenth meeting of the Public Safety National Coordination Committee (''NCC''), which will be held in Washington, D.C. The Federal Advisory Committee Act, Public Law 92–463, as amended, requires public notice of all meetings of the NCC.

Date: November 2, 2000.

Meeting Time: General Membership Meeting—9:30 a.m.–12:30 p.m.

Address: Federal Communications Commission, 445 12th Street, S.W., Commission Meeting Room, Washington, D.C. 20554.

The NCC Subcommittees will meet from 9:00 a.m. to 5:30 p.m. the previous day. The NCC General Membership Meeting will commence at 9:30 a.m. and continue until 12:30 p.m. The agenda for the NCC membership meeting is as follows:

1. Introduction and Welcoming Remarks.
2. Administrative Matters.
3. Report from the Interoperability Subcommittee.
4. Report from the Technology Subcommittee.
5. Report from the Implementation Subcommittee.
6. Public Discussion.
7. Other Business.
8. Upcoming Meeting Dates and Locations.
9. Closing Remarks.

The FCC has established the Public Safety National Coordination Committee, pursuant to the provisions of the Federal Advisory Committee Act, to advise the Commission on a variety of issues relating to the use of the 24 MHz of spectrum in the 764–776/794–806 MHz frequency bands (collectively, the 700 MHz band) that has been allocated to public safety services. See The Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communications Requirements Through the Year 2010 and Establishment of Rules and Requirements for Priority Access Service, WT Docket No. 96–86, First Report and Order and Third Notice of Proposed Rulemaking, FCC 98–191, 14 FCC Rcd 152 (1998), 63 FR 58645 (11–2–98).

The NCC has an open membership. Previous expressions of interest in membership have been received in response to several Public Notices inviting interested persons to become members and to participate in the NCC's processes. All persons who have previously identified themselves or have been designated as a representative of an organization are deemed members and are invited to attend. All other interested parties are hereby invited to attend and to participate in the NCC processes and its meetings and to become members of the Committee. This policy will ensure balanced participation. Members of the general public may attend the meeting. To attend the tenth meeting of the Public Safety National Coordination Committee, please RSVP to Joy Alford or Bert Weintraub of the Policy and Rules Branch of the Public Safety and Private Wireless Division, Wireless Telecommunications Bureau of the FCC by calling (202) 418–0680, by faxing

(202) 418–2643, or by E-mailing at jalford@fcc.gov or bweintra@fcc.gov. Please provide your name, the organization you represent, your phone number, fax number and e-mail address. This RSVP is for the purpose of determining the number of people who will attend this eighth meeting. The FCC will attempt to accommodate as many people as possible. However, admittance will be limited to the seating available. Persons requesting accommodations for hearing disabilities should contact Joy Alford immediately at (202) 418–7233 (TTY). Persons requesting accommodations for other physical disabilities should contact Joy Alford immediately at (202) 418–0694 or via e-mail at jalford@fcc.gov. The public may submit written comments to the NCC's Designated Federal Officer before the meeting.

Additional information about the NCC and NCC-related matters can be found on the NCC website located at: http://www.fcc.gov/wtb/publicsafety/ncc.html.

Federal Communications Commission.

Jeanne Kowalski,

Deputy Division Chief for Public Safety, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau.

[FR Doc. 00–25925 Filed 10–6–00; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1341–DR]

Idaho; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Idaho (FEMA–1341–DR), dated September 1, 2000, and related determinations.

EFFECTIVE DATE: September 26, 2000.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective September 26, 2000.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Robert J. Adamcik,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 00–25836 Filed 10–6–00; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1340–DR]

Montana; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Montana (FEMA–1340–DR), dated August 30, 2000, and related determinations.

EFFECTIVE DATE: September 26, 2000.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472; (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective September 25, 2000.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Robert J. Adamcik,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 00–25835 Filed 10–6–00; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1343–DR]

Ohio; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Ohio (FEMA–1343–DR), dated September 26, 2000, and related determinations.

EFFECTIVE DATE: September 26, 2000.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated September 26, 2000, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Ohio, resulting from severe storms and a tornado on September 20, 2000, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the Stafford Act). I, therefore, declare that such a major disaster exists in the State of Ohio.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Hazard Mitigation in the designated areas and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Public Assistance is later determined to be warranted, Federal funds provided under that program will also be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Louis Botta of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following area of the State of Ohio to have been

affected adversely by this declared major disaster:

Greene County for Individual Assistance.

All counties within the State of Ohio are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

James L. Witt,

Director.

[FR Doc. 00–25837 Filed 10–6–00; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 24, 2000.

A. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303–2713:

1. *Adam Gregory Chapman;* Jonathan Luke Chapman; Lance Randall Chapman; Margaret Fruge Chapman; Charles Randel Chapman; Brenda Vidrine Fruge; Jack Cleveland Fruge, Sr.; Jack C. Fruge, Sr. Charitable Remainder Unitrust; Katherine Stephenson LaFleur; all of Ville Platte, Louisiana; Jack Cleveland Fruge, Jr.; Jacques Cleveland Fruge, III; Emily Jeanne Fruge; all of Lafayette, Louisiana; and Jaqueline Stephenson LeCompte, New Iberia, Louisiana; all to retain voting shares of Evangeline Bancshares, Inc., Ville Platte, Louisiana, and thereby indirectly retain voting shares of Evangeline Bank & Trust Company, Ville Platte, Louisiana.

Board of Governors of the Federal Reserve System, October 4, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–25955 Filed 10–6–00; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Statement of Organization, Functions, and Delegations of Authority

Part F, of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services, Health Care Financing Administration (HCFA), 49 FR 34247, dated September 6, 1998, is amended to include the following delegation of authority from the Secretary to the Administrator, HCFA, for Title II of the Ticket to Work and Work Incentives Improvement Act of 1999.

• Section F.30., Delegations of Authority is amended by adding the following paragraph:

UU. The authorities vested in the Secretary by Title II, ''Expanded Availability of Health Care Services,'' under the Ticket to Work and Work Incentives Improvement Act of 1999, Pub. L. 106–170, as amended hereafter, and as they relate to the mission of HCFA.

This delegation shall be exercised under the Department's existing delegation of authority and policy on regulations. In addition, I hereby affirm and ratify any actions taken by the HCFA Administrator or other HCFA officials which, in effect, involved the exercise of this authority prior to the effective date of this delegation.

This delegation is effective September 25, 2000.

Dated: September 25, 2000.

Donna E. Shalala,

The Secretary.

[FR Doc. 00–25813 Filed 10–6–00; 8:45 am]

BILLING CODE 4120–03–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Notice of Meeting

In accordance with section 10(d) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), announcement is made of this Special Emphasis Panel meeting.

A Special Emphasis Panel (SEP) is a committee of experts selected to conduct scientific reviews of applications related to their areas of expertise. The committee members are drawn from a list of experts and designated to serve for particular individual meetings rather than for extended fixed terms of services.

Substantial segments of this upcoming SEP meeting listed below will be closed to the public in accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C., 552b(c)(6). Grant applications are to be reviewed and discussed at this meeting. These discussions are likely to include personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure under the above-cited statutes.

1. *Name of SEP:* Health Research Dissemination & Implementation.

Date: October 23, 2000 (Open from 8 a.m. to 8:15 a.m. and closed for the remainder of the meeting).

Place: 6010 Building, 4th Floor, Conference Room D, Rockville, Maryland 20852.

Contact Person: Anyone wishing to obtain a roster of members or minutes of this meeting should contact Ms. Jenny Griffith, Committee Management Officer, Office of Research Review, Education and Policy, AHRQ, 2101 East Jefferson Street, Suite 400, Rockville, Maryland 20852, Telephone (301) 594–1847.

Agenda items for this meeting are subject to change as priorities dictate.

Dated: October 2, 2000.

John M. Eisenberg,

Director.

[FR Doc. 00–25877 Filed 10–6–00; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Vessel Sanitation Program Operations Manual—2000

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice announces the revision and implementation of the Vessel Sanitation Program Operations Manual—2000.

EFFECTIVE DATE: The revised Operations Manual will become effective on November 1, 2000.

FOR FURTHER INFORMATION CONTACT: David Forney, Chief, Vessel Sanitation Program, Division of Emergency and Environmental Health Services (EEHS), National Center for Environmental Health (NCEH), Mailstop F–16, Centers for Disease Control and Prevention (CDC), Atlanta, Georgia 30333, telephone (770) 488–7333, e-mail: DForney@cdc.gov.

SUPPLEMENTARY INFORMATION:

Purpose and Background

The Vessel Sanitation Program (VSP) is a cooperative activity between the cruise ship industry and the Centers for Disease Control and Prevention (CDC), U.S. Department of Health and Human Services. The purpose and goals of VSP are to achieve and maintain a level of sanitation that will lower the risk for gastrointestinal disease outbreaks and assist the passenger cruise line industry in its effort to provide a healthy environment for passengers and crew.

Comments

CDC announced their intention to revise the Vessel Sanitation Operations Manual, August 1989 in the **Federal Register**, Volume 62, Thursday, August 23, 1997, page 44475. A subsequent request to solicit topic-specific information for incorporation into a revised operations manual was published in the **Federal Register** on July 9, 1998 (63 FR 37128). Input and public comments were requested and received from the cruise ship industry, private sanitation consultants, other Federal agencies, and other interested parties and were discussed in detail at a public meeting held in Fort Lauderdale, Florida, on April 14–16, 1999.

Based on comments received, VSP staff redrafted the manual and that revised draft was discussed at a public meeting held in Fort Lauderdale, Florida, on October 5–7, 1999. The current document incorporates the input and comments received from the cruise ship industry, private sanitation consultants, and other interested parties who attended both public meetings, and who submitted comments in writing.

The final draft of the VSP Operations Manual—2000 was also presented to attendees at the VSP annual public meeting held in Ft. Lauderdale, Florida, on March 28, 2000. Major input to this document was also provided by the International Council of Cruise Lines, which represents the 17 largest passenger cruise lines that call on major ports in the United States and abroad.

Implementation and Transition for the VSP Operations Manual—2000

The VSP Operations Manual—2000 will become effective on November 1, 2000. At that time, VSP environmental health officers will begin using the new manual and inspection report when they conduct their routine operational inspections.

For a period of one year, or two routine inspections, whichever comes first, VSP staff will document all deficiencies not in compliance with the 2000 manual; however, points will not be deducted for those new and more stringent provisions contained in the 2000 manual that were not in the 1989 manual. During the phase-in period, these deficiencies will only be ''starred'' so corrective actions can be made accordingly. For example, the new cold holding temperature for potentially hazardous foods is 5°C (41°F) and the old temperature is 7.5°C (45°F). Food found to be labeled between these temperatures during the first year, or two routine inspections, will be documented and ''starred'' on the inspection report without points being deducted.

Applicability

The VSP Operations Manual—2000 will be applicable to all passenger cruise vessels with international itineraries calling on U.S. ports.

Availability

Final copies of the VSP Operations Manual—2000 are available in pdf format on the VSP Web site at *http://www.cdc.gov/nceh/vsp* or by contacting Dorothy Johnson, Program Management Assistant at the Vessel Sanitation Program, National Center for Environmental Health, Centers for Disease Control and Prevention (CDC), Mailstop F–16, 4770 Buford Highway, N.E., Atlanta GA 30341–3274, or by e-mailing her at DJJohnson@cdc.gov. Requests may also be sent to *vsp@cdc.gov.*

Dated: October 3, 2000.

Thena M. Durham,

Director, Executive Secretariat, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–25906 Filed 10–6–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–1521]

Agency Information Collection Activities; Proposed Collection; Comment Request; Food Labeling Regulations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection provisions in FDA's food labeling regulations.

DATES: Submit written or electronic comments on the collection of information by December 11, 2000.

ADDRESSES: Submit electronic comments on the collection of information to http://www.accessdata.fda.gov/scripts/oc/dockets/edockethome.cfm. Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of

information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Food Labeling Regulations (21 CFR Parts 101, 102, 104, and 105)

FDA regulations require food producers to disclose to consumers and others specific information about themselves or their products on the label or labeling of their products. Related regulations require that food producers retain records establishing the basis for the information contained in the label or labeling of their products and provide those records to regulatory officials. Finally, certain regulations provide for the submission of food labeling petitions to FDA. FDA's food labeling regulations in parts 101, 102, 104, and 105 (21 CFR parts 101, 102, 104, and 105) were issued under the authority of sections 4, 5, and 6 of the Fair Packaging and Labeling Act (the FPLA) (15 U.S.C. 1453, 1454, and 1455) and of sections 201, 301, 402, 403, 409, 411, 701, and 721 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321, 331, 342, 343, 348, 350, 371, and 379e). Most of these regulations derive from section 403 of the act, which provides that a food product shall be deemed to be misbranded if, among other things, its label or labeling fails to bear certain required information concerning the food product, is false or misleading in any particular, or bears certain types of unauthorized claims. The disclosure requirements and other collections of information in the regulations in parts 101, 102, 104, and 105 are necessary to ensure that food products produced or sold in the United States are in compliance with the labeling provisions of the act and the FPLA.

Section 101.3 of FDA's food labeling regulations requires that the label of a food product in packaged form bear a statement of identity (i.e., the name of the product), including, as appropriate, the form of the food or the name of the food imitated. Section 101.4 prescribes requirements for the declaration of ingredients on the label or labeling of food products in packaged form. Section 101.5 requires that the label of a food product in packaged form specify the name and place of business of the manufacturer, packer, or distributor and, if the food producer is not the manufacturer of the food product, its connection with the food product. Section 101.9 requires that nutrition information be provided for all food products intended for human consumption and offered for sale, unless an exemption in § 101.9(j) applies to the product. Section 101.9(g)(9) also provides for the submission to FDA of requests for alternative approaches to nutrition labeling. Finally, § 101.9(j)(18) provides for the submission to FDA of notices from firms claiming the small business exemption from nutrition labeling.

Section 101.10 requires that restaurants provide nutrition information, upon request, for any food or meal for which a nutrient content claim or health claim is made. Section 101.12(b) provides the reference amount that is used for determining the serving sizes for baking powder, baking soda, and pectin. Section 101.12(e) provides that a manufacturer that adjusts the reference amount customarily consumed (RACC) of an aerated food for the difference in density of the aerated food relative to the density of the appropriate nonaerated reference food must be prepared to show FDA detailed protocols and records of all data that were used to determine the density-adjusted RACC. Section 101.12(g) requires that the label or labeling of a food product disclose the serving size that is the basis for a claim made for the product if the serving size on which the claim is based differs from the RACC. Section 101.12(h) provides for the submission of petitions to FDA to request changes in the reference amounts defined by regulation.

Section 101.13 requires that nutrition information be provided in accordance with § 101.9 for any food product for which a nutrient content claim is made. Under some circumstances, § 101.13 also requires the disclosure of other types of information as a condition for the use of a nutrient content claim. For example, under § 101.13(j), if the claim compares the level of a nutrient in the food with the level of the same nutrient in another ''reference'' food, the claim must also disclose the identity of the reference food, the amount of the nutrient in each food, and the percentage or fractional amount by which the amount of the nutrient in the labeled food differs from the amount of the nutrient in the reference food. It also requires that when this comparison is based on an average of served foods, this information must be provided to consumers or regulatory officials upon request. Section 101.13(q)(5) requires that restaurants document and provide to appropriate regulatory officials, upon request, the basis for any nutrient content claims they have made for the foods they sell.

Section 101.14 provides for the disclosure of nutrition information in accordance with § 101.9 and, under some circumstances, certain other information as a condition for making a health claim for a food product. Section 101.15 provides that, if the label of a food product contains any representation in a foreign language, all words, statements, and other information required by or under authority of the act to appear on the label shall appear thereon in both the foreign language and in English. Section 101.22 contains labeling requirements for the disclosure of spices, flavorings, colorings, and chemical preservatives in food products. Section 101.22(i)(4) sets forth reporting and recordkeeping requirements pertaining to certifications for flavors designated as containing no artificial flavor. Section 101.30 specifies the conditions under which a beverage that purports to contain any fruit or vegetable juice must declare the percentage of juice present in the beverage and the manner in which the declaration is to be made.

Section 101.36 requires that nutrition information be provided for dietary supplements offered for sale, unless an exemption in § 101.36(h) applies. Section 101.36(f)(2) cross-references the provisions in § 101.9(g)(9) for the submission to FDA of requests for alternative approaches to nutrition labeling. Also, § 101.36(h)(2) cross-references the provisions in

§ 101.9(j)(18) for the submission of small business exemption notices.

Section 101.42 requests that food retailers voluntarily provide nutrition information for raw fruits, vegetables, and fish at the point of purchase, and § 101.45 contains guidelines for providing such information. Also, § 101.45(c) provides for the submission of nutrient data bases and proposed nutrition labeling values for raw fruit, vegetables, and fish to FDA for review and approval.

Sections 101.54, 101.56, 101.60, 101.61, and 101.62 specify information that must be disclosed as a condition for making particular nutrient content claims. Section 101.67 cross-references requirements in other regulations for ingredient declaration (§ 101.4) and disclosure of information concerning performance characteristics (§ 101.13(d)). Section 101.69 provides for the submission of a petition requesting that FDA authorize a particular nutrient content claim by regulation. Section 101.70 provides for the submission of a petition requesting that FDA authorize a particular health claim by regulation. Section 101.77(c)(2)(ii)(D) requires the disclosure of the amount of soluble fiber per serving in the nutrition labeling of a food bearing a health claim about the relationship between soluble fiber and a reduced risk of coronary heart disease. Section 101.79(c)(2)(iv) requires the disclosure of the amount of folate per serving in the nutrition labeling of a food bearing a health claim about the relationship between folate and a reduced risk of neural tube defects.

Section 101.100(d) provides that any agreement that forms the basis for an exemption from the labeling requirements of section 403(c), (e), (g), (h), (i), (k), and (q) of the act be in writing and that a copy of the agreement be made available to FDA upon request. Section 101.100 also contains reporting and disclosure requirements as conditions for claiming certain labeling exemptions.

Section 101.105 specifies requirements for the declaration of the net quantity of contents on the label of a food in packaged form and prescribes conditions under which a food whose label does not accurately reflect the actual quantity of contents may be sold, with appropriate disclosures, to an institution operated by Federal, State, or local government. Section 101.108 provides for the submission to FDA of a written proposal requesting a temporary exemption from certain requirements of §§ 101.9 and 105.66 for the purpose of conducting food labeling experiments with FDA's authorization.

Regulations in part 102 define the information that must be included as part of the statement of identity for particular foods and prescribe related labeling requirements for some of these foods. For example, § 102.22 requires that the name of a protein hydrolysate shall include the identity of the food source from which the protein was derived.

Part 104, which pertains to nutritional quality guidelines for foods, cross-references several labeling provisions in part 101 but contains no separate information collection requirements.

Part 105 contains special labeling requirements for hypoallergenic foods, infant foods, and certain foods represented as useful in reducing or maintaining body weight.

The disclosure and other information collection requirements in the above regulations are placed primarily upon manufacturers, packers, and distributors of food products. Because of the existence of exemptions and exceptions, not all of the requirements apply to all food producers or to all of their products. Some of the regulations affect food retailers, such as supermarkets and restaurants.

The purpose of the food labeling requirements is to allow consumers to be knowledgeable about the foods they purchase. Nutrition labeling provides information for use by consumers in selecting a nutritious diet. Other information enables a consumer to comparison shop. Ingredient information also enables consumers to avoid substances to which they may be sensitive. Petitions or other requests submitted to FDA provide the basis for the agency to permit new labeling statements or to grant exemptions from certain labeling requirements. Recordkeeping requirements enable FDA to monitor the basis upon which certain label statements are made for food products and whether those statements are in compliance with the requirements of the act or the FPLA.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN

21 CFR Sections and Parts	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours	Total Capital, Operating, and Maintenance Costs
101.3, 101.22 and 102 and 104	17,000	1.03	17,500	0.5	8,750	0
101.4, 101.22, 101.100 and 102, 104, and 105	17,000	1.03	17,500	1	17,500	0
101.5	17,000	1.03	17,500	0.25	4,375	0
101.9, 101.13(n), 101.14(d)(3), 101.62, and 104	17,000	1.03	17,500	4	70,000	$1,000,000
101.9(g)(9) and 101.36(f)(2)	12	1	12	4	48	0
101.9(j)(18) and 101.36(h)(2)	10,000	1	10,000	8	80,000	0
101.10	265,000	1.5	397,500	0.25	99,375	0
101.12(b)	29	2.3	66	1	66	$39,600
101.12(e)	25	1	25	1	25	0

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN—Continued

21 CFR Sections and Parts	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours	Total Capital, Operating, and Maintenance Costs
101.12.(g)	5,000	1	5,000	1	5,000	0
101.12(h)	5	1	5	80	400	$400,000
101.13(d)(i) and 101.67	200	1	200	1	200	0
101.13(j)(2), 101.13(k), 101.54, 101.56, 101.60, 101.61, and 101.62	2,500	1	2,500	1	2,500	0
101.13(q)(5)	265,000	1.5	397,500	0.75	298,125	0
101.14(d)(2)	265,000	1.5	397,500	0.75	298,125	0
101.15	160	10	1,600	8	12,800	0
101.22(i)(4)	25	1	25	1	25	0
101.30 and 102.33	1,500	3.3	5,000	1	5,000	0
101.36	300	40	12,000	4	48,000	$15,000,000
101.42 and 101.45	72,270	1	72,270	0.5	36,135	0
101.45(c)	5	4	20	4	80	0
101.69	3	1	3	25	75	0
101.70	3	1	3	80	240	$400,000
101.77(c)(2)(ii)(D)	1,000	1	1,000	0.25	250	0
101.79(c)(2)(iv)	100	1	100	0.25	25	0
101.100(d)	1,000	1	1,000	1	1,000	0
101.105 and 101.100(h)	17,000	1.03	17,500	0.5	8,750	0
101.108	0	0	0	40	0	0
Total					985,000	$16,800,000

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN

21 CFR Sections and Parts	No. of Recordkeepers	Annual Frequency per Recordkeepers	Total Annual Records	Hours per Record	Total Hours	Total Capital, Operating, and Maintenance Costs
101.12(e)	25	1	25	1	25	0
101.13(q)(5)	265,000	1.5	397,500	0.75	298,125	0
101.14(d)(2)	265,000	1.5	397,500	0.75	298,125	0
101.22(i)(4)	25	1	25	1	25	0
101.100(d)(2)	1,000	1	1,000	1	1,000	0
101.105(t)	100	1	100	1	100	0
Total					597,400	0

These estimates are based on the document entitled ''Regulatory Impact Analysis of the Final Rules to Amend the Food Labeling Regulations,'' which is the agency's most recent comprehensive review of food labeling costs that published in the **Federal Register** of January 6, 1993 (58 FR 2927); agency communications with industry; and FDA's knowledge of and experience with food labeling and the submission of petitions and requests to

the agency. Where an agency regulation implements an information collection requirement in the act or the FPLA, only any additional burden attributable to the regulation has been included in FDA's burden estimate.

No burden has been estimated for those requirements where the information to be disclosed is information that has been supplied by FDA. Also, no burden has been estimated for information that is disclosed to third parties as a usual and customary part of a food producer's normal business activities. Under 5 CFR 1320.3(c)(2), the public disclosure of information originally supplied by the Federal Government to the recipient for the purpose of disclosure to the public is not a collection of information. Under 5 CFR 1320.3(b)(2), the time, effort, and financial resources necessary to comply with a collection of information are excluded from the burden estimate if the reporting, recordkeeping, or disclosure activities needed to comply are usual and customary because they would occur in the normal course of activities.

Dated: October 2, 2000.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 00–25810 Filed 10–6–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301)–443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: **The Health Education Assistance Loan (HEAL)**

Program: **Regulatory Requirements—(OMB No. 0915–0108)—Revision**

This clearance request is for revision of approval for the notification, reporting and recordkeeping requirements in the HEAL program to insure that the lenders, holders and schools participating in the HEAL program follow sound management procedures in the administration of federally-insured student loans. While the regulatory requirements are approved under this OMB number, some of the burden associated with the regulations is cleared under the OMB numbers for the HEAL forms used to report required information (listed below). The table listed at the end of this notice contains the estimate of burden for the remaining regulations.

Annual Response Burden for the following regulations is cleared by OMB when the reporting forms are cleared:

OMB Approval No. 0915–0034, Lender's Application, Borrower Status, Loan Transfer, Contract for Loan Insurance

Reporting

42 CFR 60.31(a), Lender annual application.

42 CFR 60.38(a), Loan Reassignment.

Notification

42 CFR 60.12(c)(1), Borrower deferment.

OMB Approval No. 0915–0036, Lender's Application for Insurance Claim

Reporting

42 CFR 60.35(a)(2), Lender skip-tracing activities.

42 CFR 60.40(a), Lender documentation to litigate a default.

42 CFR 60.40(c)(i), (ii), and (iii), Lender default claim.

42 CFR 60.40(c)(2), Lender death claim.

42 CFR 60.40(c)(3), Lender disability claim.

42 CFR 60.40(c)(4), Lender report of student bankruptcy.

OMB Approval No. 0915–0043, Repayment Schedule, Call Report

Notification

42 CFR 60.11(e), Establishment of repayment terms-borrower.

42 CFR 60.11(f)(5), Borrower notice of supplemental repayment agreement.

42 CFR 60.34(b)(1), Establishment of repayment terms-lender.

OMB Approval No. 0915–0204, Physicians Certification of Permanent and Total Disability

Reporting

42 CFR 60.39(b)(2), Holder request to Secretary to determine borrower disability.

OMB Approval No. 0915–227, Refinancing Application/Promissory Note

42 CFR 60.33(e), Executed application and note to borrower.

The estimate of burden for the regulatory requirements of this clearance are as follows:

REPORTING REQUIREMENTS

Number of respondents	Number of transactions per respondent	Total transactions	Time per response (hours)	Total burden hours
22 Lenders	7	161	0.7	116
200 Schools	7	139	0.2	23
Total Reporting	.....	.....	.....	139

NOTIFICATION REQUIREMENTS

Number of respondents	Number of transactions per respondent	Total transactions	Time per response (hours)	Total burden hours
22 Lenders	11,271	247,958	0.2	46,293
200 Schools	30	5,956	0.3	1,988

NOTIFICATION REQUIREMENTS—Continued

Number of respondents	Number of transactions per respondent	Total transactions	Time per response (hours)	Total burden hours
20,639 Borrowers	1	20,639	0.2	3,440
Total Notification				51,721

RECORDKEEPING REQUIREMENTS

Number of respondents	Number of transactions per respondent	Total transactions	Time per response (hours)	Total burden hours
22 Lenders	4,929	128,169	0.2	28,993
200 Schools	768	101,639	0.1	14,437
Total Recordkeeping				43,430

Total Annual Burden: 95,290 Hrs.

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: John Morrall, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: October 2, 2000.

Jane Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 00–25812 Filed 10–6–00; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Availability for Licensing: Chromatin Insulator Protecting Expressed Genes of Interest for Human Gene Therapy or Other Mammalian Transgenic Systems

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The National Institutes of Health (NIH), Department of Health and Human Services (DHHS), seeks licensee(s) who can effectively pursue the preclinical, clinical and commercial development of the technology embodied in U.S. Patent 5,610,053 entitled ''DNA Sequence Which Acts as a Chromatin Insulator Element to Protect Expressed Genes from Cis-acting Regulatory Sequences in Mammalian Cells,'' issued on March 11, 1997. The invention describes the isolation, identification, and characterization of a DNA element residing in higher eukaryotic chromatin structural domains. All fields of use are available for licensing. The patent rights in this technology have been assigned to the United States of America.

ADDRESSES: Requests for copies of the issued patent, inquiries, comments and other materials relating to the contemplated licenses should be directed to: Girish C. Barua, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7735 ext. 266; Facsimile: 301/402–0220; E-mail: baruag@od.nih.gov.

SUPPLEMENTARY INFORMATION: The technology provides the isolation of a functional DNA sequence comprising a chromatin insulating element from a vertebrate system and provides the first employment of the pure insulator element as a functional insulator in mammalian cells. The technology further relates to a method for insulating the expression of a gene from the activity of cis-acting regulatory sequences in eukaryotic chromatin.

This technology could be of major importance in providing a mechanism and a tool to restrict the action of cis-acting regulatory elements on genes whose activities or encoded products are needed or desired to be expressed in mammalian transgenic systems. This technology provides the first pure insulator element to function solely as an insulator element in human cells. Accordingly, this technology could have tremendous practical implications for transgenic technology and human gene therapies, either in vitro or in vivo.

The technology further provides a method and constructs for insulating the expression of a gene or genes in transgenic animals such that the transfected genes will be protected and stably expressed in the tissues of the transgenic animal or its offspring. For example, even if the DNA of the construct integrates into areas of silent chromatin in the genomic DNA of the host animal, the gene will continue to be expressed. The invention could provide a means of improving the stable integration and expression of any transgenic construct of interest, with efficiencies higher than are achieved presently. Use of this invention may represent a large potential savings for licensee's constructing transgenic cell lines or animals.

The NIH seeks licensee(s), who in accordance with requirements and regulations governing the licensing of government-owned inventions (37 CFR part 404), have meritorious plan(s) for the development of the DNA Chromatin Insulator technology to a marketable status to meet the needs of the public.

Dated: September 29, 2000.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 00–25893 Filed 10–6–00; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Director's Council of Public Representatives.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such

as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Director's Council of Public Representatives.

Date: October 31-November 1, 2000.

Time: October 31, 2000, 8:30 am to 3:30 pm.

Agenda: Among the topics proposed for discussion are: (1) human research protections; (2) informed consent; and (3) medical applications research.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31C, Conference Room 6, Bethesda, MD 20892.

Time: November 1, 2000, 8 am to 10 am.

Agenda: Same as above.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31C, Conference Room 6, Bethesda, MD 20892.

Contact Person: Jennifer E. Gorman, Public Liaison/COPR Coordinator, Office of Communications and Public Liaison, Office of the Director, National Institutes of Health, 9000 Rockville Pike, Building 1, Room 344, Bethesda, MD 20892, (301) 435–4448.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program, National Institutes of Health, HHS)

Dated: October 3, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–25878 Filed 10–6–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(a)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Research Resources Special Emphasis Panel, Comparative Medicine.

Date: October 20, 2000.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Office of Review, National Center for Research Resources, 6705 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Sybil A. Wellstood, Scientific Review Administrator, Office of Review, National Center for Research Resources, 6705 Rockledge Drive, MSC 7965, Room 6018, Bethesda, MD 20892–7965, 301–435–0814.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333; 93.371, Biomedical Technology; 93.389, Research Infrastructure, National Institutes of Health, HHS)

Dated: September 29, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–25886 Filed 10–6–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Research Resources Special Emphasis Panel Comparative Medicine.

Date: October 12, 2000.

Time: 3:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Office of Review, National Center for Research Resources, 6705 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Sybil A. Wellstood, Scientific Review Administrator, Office of Review, National Center for Research Resources, 6705 Rockledge Drive, MSC 7965, Room 6018, Bethesda, MD 20892–7965; 301–435–0814.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333; 93.371, Biomedical Technology; 93.389, Research Infrastructure, National Institutes of Health, HHS)

Dated: September 29, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–25887 Filed 10–6–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Demonstration and Education Research Applications (R18s).

Date: November 2, 2000.

Time: 9 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton National Airport Hotel, 2399 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Louise P. Corman, Scientific Review Administrator, Review Branch, Room 7180, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, Bethesda, MD 20892.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and

Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 29, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–25889 Filed 10–6–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Clinical Trials Review Committee.

Date: October 29–30, 2000.

Time: 6:30 to 1:30 pm.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency, One Metro Center, Bethesda, MD 20814.

Contact Person: Joyce A. Hunter, Review Branch, Room 7192, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, Bethesda, MD 20892–7924, 301/435–0277.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 29, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–25890 Filed 10–6–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: October 23, 2000.

Time: 3 PM to 4 PM.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: David I. Sommers, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: October 24, 2000.

Time: 2 PM to 3 PM.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: David I. Sommers, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: November 21, 2000.

Time: 11 AM to 12 PM.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Henry J. Haigler, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6150, MSC 9608, Bethesda, MD 20892–9608, 301/443–7216.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: September 26, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–25880 Filed 10–6–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NIEHS.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Environmental Health Sciences, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIEHS.

Date: October 22–24, 2000.

Closed: October 22, 2000, 8 p.m. to 9:30 p.m.

Agenda: To review and evaluate program information and discuss the review process.

Place: Doubletree Guest Suites, 2515 Meridian Parkway, Research Triangle Park, NC 27709.

Open: October 23, 2000, 8:30 a.m. to 5 p.m.

Agenda: An overview of the organization and conduct of research in the Biometry Branch.

Place: Nat. Institute of Environmental Health Sciences, South Campus, Conference Rooms 101 ABC, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Closed: October 24, 2000, 8:30 a.m. to Adjournment.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Nat. Institute of Environmental Health Sciences, South Campus, Conference Rooms 101 ABC, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Contact Person: Paul Nettesheim, Acting Scientific Director, Office of the Scientific Director, Nat. Institute of Environmental Health Sciences, National Institutes of Health, Mail Drop A2–09, 111 T. W. Alexander Drive, Research Triangle Park, NC 27709, 919/541–3205.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: October 2, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–25881 Filed 10–6–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Maternal and Child Health Research Subcommittee.

Date: October 16–18, 2000.

Time: 3 pm to 5:30 pm.

Agenda: To review and evaluate grant applications.

Place: 1380 Piccard Drive, Rockville, MD 20850.

Contact Person: Gopal M. Bhatnagar, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, Bethesda, MD 20892.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: October 2, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–25882 Filed 10–6–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: October 20, 2000.

Time: 8 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: River Inn, 924 25th Street, NW, Washington, DC 20037.

Contact Person: Sean O'Rourke, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Boulevard, Bethesda, MD 20892–7003, 301–443–2861.

(Catalogue of Federal Domestic Assistance Program Nos. 93. 271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: September 26, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–25883 Filed 10–6–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Arthritis and Musculoskeletal and Skin Diseases Special Grants Review Committee.

Date: October 16–17, 2000.

Time: 8:30 am to 5:30 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 2 Montgomery Village Avenue, Gaithersburg, MD 20879.

Contact Person: John R. Lymangrover, Scientific Review Administrater, National Institutes of Health, NIAMS, Natcher Bldg., Room 5As25N, Bethesda, MD 20892, 301–594–4952.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: September 29, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–25884 Filed 10–6–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Medication Development Research.

Date: November 2, 2000.

Time: 10 am to 12 pm.

Agenda: To review and evaluate grant applications.

Place: Hyatt—Arlington at Washington's Key Bridge, 1325 Wilson Boulevard, Arlington, VA 22209–9990.

Contact Person: Mark Swieter, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1389.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Medication Development Research.

Date: November 2, 2000.

Time: 12:30 pm to 1:30 pm.

Agenda: To review and evaluate grant applications.

Place: Hyatt—Arlington at Washington's Key Bridge, 1325 Wilson Boulevard, Arlington, VA 22209–9990.

Contact Person: Mark Swieter, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1389.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Program, National Institutes of Health, HHS)

Dated: September 29, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–25885 Filed 10–06–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as pententable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of person privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Date: October 27, 2000.

Time: 8:30 am to 1 pm.

Agenda: To review and evaluate contract proposals.

Place: Gaithersburg Holiday Inn, Gaithersburg, MD 20879.

Contact Person: Vassil S. Georgiev, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC, 7610, Bethesda, MD 20892–7610, 301–496–2550.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 29, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–25888 Filed 10–6–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: October 13, 2000.

Time: 11:00 AM to 12:30 PM.

Agenda: To review and evaluate grant applications.

Place: Governor's House Hotel, Washington, DC 20036.

Contact Person: Anita Miller Sostek, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3176, MSC 7848, Bethesda, MD 20892, (301) 435–1260

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Integrative, Functional and Cognitive Neuroscience 8.

Date: October 19–20, 2000.

Time: 8:00 AM to 4:00 PM.

Agenda: To review and evaluate grant applications.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Samuel Rawlings, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5160, MSC 7844, Bethesda, MD 20892, (301) 435–1243.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: October 19–20, 2000.

Time: 8:00 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Yvette M. Davis, VmD, MpH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3152, MSC 7770, Bethesda, MD 20892, 301–435–0906.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group, Visual Sciences C Study Section.

Date: October 19–20, 2000.

Time: 8:00 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Santa Fe, 4048 Cerrillos Road, Santa Fe, NM 87505.

Contact Person: Carole L. Jelsema, PhD, Chief, MDCN Scientific Review Group, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7850, Bethesda, MD 20892, (301) 435–1248, jelsemac@csr.nih.gov.

Name of Committee: Immunological Sciences Integrated Review Group Allergy and Immunology Study Section.
Date: October 19–20, 2000.
Time: 8:30 AM to 5:00 PM
Agenda: To review and evaluate grant applications.
Place: Wyndham City Center, 1143 New Hampshire Avenue, NW, Washington, DC 20037.
Contact Person: Eugene M. Zimmerman, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4202, MSC 7812, Bethesda, MD 20892, 301–435–1220.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: October 19–20, 2000.
Time: 8:30 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Savoy Suites Georgetown, 2505 Wisconsin Avenue, N.W., Washington, DC 20007.
Contact Person: Michele C. Hindi-Alexander, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4188 MSC 7848, Bethesda, MD 20892, 301–435–3554.

Name of Committee: Oncological Sciences Integrated Review Group, Experimental Therapeutics Subcommittee 1.
Date: October 19–20, 2000.
Time: 8:30 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Arlington Hyatt, 1325 Wilson Boulevard, Arlington, VA 22209
Contact Person: Philip Perkins, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7804, Bethesda, MD 20892, (301) 435–1718, perkinsp@csr.nih.gov.

Name of Committee: Biophysical and Chemical Sciences Integrated Review Group, Biophysical Chemistry Study Section.
Date: October 19–20, 2000.
Time: 8:30 AM to 4:00 PM.
Agenda: To review and evaluate grant applications.
Place: Ramada Hotel Bethesda, 8400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Arnold Revzin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4192, MSC 7806, Bethesda, MD 20892, (301) 435–1153.

Name of Committee: Cell Development and Function Integrated Review Group, Cell Development and Function 5.
Date: October 19–20, 2000.
Time: 8:30 AM to 4:00 PM.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Ramesh K. Nayak, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5146, MSC 7840, Bethesda, MD 20892, (301) 435–1026.

Name of Committee: Biochemical Sciences Intergrated Review Group, Biochemistry Study Section.
Date: October 19–20, 2000.
Time: 8:30 AM to 4:00 PM.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Chhanda L. Ganguly, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5156, MSC 7842, Bethesda, MD 20892, (301) 435–1739.

Name of Committee: Cell Development and Function Integrated Review Group, International and Cooperative Projects Study Section.
Date: October 19–20, 2000.
Time: 8:30 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.
Contact Person: Sandy Warren, DmD, Mph, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5134, MDC 7840, Bethesda, MD 20892, (301) 435–1019.

Name of Committee: Cell Development and Function Integrated Review Group, Cell Development and Function 4.
Date: October 19–20, 2000.
Time: 8:30 AM to 12:00 PM.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Marcia Steinberg, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5140, MSC 7840, Bethesda, MD 20892, (301) 435–1023.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group, Microbial Physiology and Genetics Subcommittee 2.
Date: October 19–20, 2000.
Time: 8:30 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Georgetown Suites, 1111 30th Street, NW, Washington, DC 20007.
Contact Person: Rona L. Hirschberg, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4186, MSC 7808, Bethesda, MD 20892, (301) 435–1150.

Name of Committee: Immunological Sciences Integrated Review Group, Immunobiology Study Section.
Date: October 19–20, 2000.
Time: 9:30 AM to 3:00 PM.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 5520 Wisconsin Avenue, Palladian West, Chevy Chase, MD 20815.
Contact Person: Betty Hayden, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4206, MSC 7812, Bethesda, MD 20892, (301) 435–1223.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: October 19–20, 2000.
Time: 9:30 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: State Plaza Hotel 2117 E Street Washington, DC 20037
Contact Person: Carl D. Banner, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5212, MSC 7850, Bethesda, MD 20892, (301) 435–1251, bannerc@drg.nih.gov

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: October 19, 2000.
Time: 11:00 AM to 2:00 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: John Bishop, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5180, MSC 7844, Bethesda, MD 20892, (301) 435–1250.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: October 19–20, 2000.
Time: 9:00 PM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Bethesda 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Mariana Dimitrov, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3180, MSC 7848, Bethesda, MD 20892, (301) 435–0902.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: October 20, 2000.
Time: 8:00 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Washington Court Hotel, 525 New Jersey Avenue, N.W., Washington, DC 20001.
Contact Person: Nancy Hicks, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Room 3158, MSC 7770, Bethesda, MD 20892.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: October 20, 2000.
Time: 2:00 PM to 3:00 PM.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Dennis Leszczynski, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6170, MSC 7892, Bethesda, MD 20892, (301) 435–1044.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 3, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–25879 Filed 10–6–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Toxicology Program; National Institute of Environmental Health Sciences; Center for the Evaluation of Risks to Human Reproduction Announces the Availability of Seven Expert Panel Reports on Phthalate Esters and Solicits Public Comments on These Reports

Background

The National Toxicology Program (NTP) and the National Institute of Environmental Health Sciences have established the NTP Center for the Evaluation of Risks to Human Reproduction (CERHR; December 14, 1998 [63 FR 68782]). The purpose of the Center is to provide timely and unbiased, scientifically sound evaluations of human and experimental evidence for adverse effects on reproduction, including development, caused by agents to which humans may be exposed. The goals of the individual assessments are to (1) interpret for and provide to the general public information about the strength of scientific evidence that a given exposure or exposure circumstance may pose a hazard to reproduction and the health and welfare of children: (2) provide regulatory agencies with objective and scientifically thorough assessments of the scientific evidence that adverse reproductive/development health effects are associated with exposure to specific chemicals or classes of chemicals, including descriptions of any uncertainties that would diminish confidence in assessment of risks, and (3) identify knowledge gaps to help establish research and testing priorities.

Phthalate Esters Reviewed

This evaluation of seven phthalate esters was conducted over a one year period by a 16-member Expert Panel made up of scientists from government, universities, and industry (May 23, 2000 [65 FR 33343–33345]). Public deliberations by the Panel were completed in July, 2000. Since that time, the draft reports have been revised to incorporate the conclusions reached by the Panel in their July, 2000, meeting and have been reviewed for accuracy by the CERHR Core Committee, made up of representatives of NTP-participating agencies, NTP scientists, and members of the Phthalates Expert Panel. Phthalate esters are used as plasticizers in a wide range of polyvinyl chloride-based consumer products. These phthalate esters were selected for the initial evaluation by the CERHR based on their high production volume, extent of human exposures, use in children's products, published evidence of reproductive or developmental toxicity, and public concern.

The following phthalate esters were reviewed by CERHR (Chemical Abstract Service Registry Number):

butyl benzyl phthalate (85–68–7)
di(2-ethylhexyl) phthalate (117–81–7)
di-isodecyl phthalate (26761–40–0, 68515–49–1)
di-isononyl phthalate (28553–12–0, 68515–48–0)
di-n-butyl phthalate (84–74–2)
di-n-hexyl phthalate (84–75–3)
di-n-octyl phthalate (117–84–0)

Availability of Phthalate Reports

Expert Panel reports on the above phthalate esters can be obtained from the CERHR website *http://cerhr.niehs.nih.gov).* Hard copies can be obtained by contacting: Ms. Harriet McCullom, Management Coordinator, CERHR, 1800 Diagonal Road, Suite 500, Alexandria, VA 22314–2808, Telephone: 703–838–9440, Facsimile: 703–684–2223.

Request for Public Comment on the Expert Panel Reports

The Center invites public comment on the Expert Panel Reports listed above, including any recent relevant toxicology data and human exposure information. These reports are the product of the Expert Panel review of data available as of July 1, 2000. Public comments received on the Expert Panel Reports will be reviewed, summarized, and included in the NTP Center transmittal report prepared by the NTP staff. NTP will transmit the NTP Center report, the Expert Panel Report, the public comments received on the expert panel report, and any new information since completion of the expert panel report to the appropriate Federal and State Agencies, the public, and the scientific community. Further information on the Center's chemical review process can be obtained from the CERHR website (*http://cerhr.niehs.nih.gov*).

Written comments received by December 11, 2000 will be considered. Please forward comments and chemical information to: Michael D. Shelby, Ph.D.; Director, CERHR, NIEHS/NTP B3–09; P.O. Box 12233; Research Triangle Park, NC 27709–2233; Telephone: 919–541–3455; Facsimile: 919–541–4634.

Dated: October 2, 2000.

Samuel H. Wilson,

Deputy Director, NIEHS.

[FR Doc. 00–25892 Filed 10–6–00; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–040–00–1040–XX]

Gila Box Riparian National Conservation Area (RNCA) Advisory Committee Meeting

AGENCY: Bureau of Land Management, Interior.

SUMMARY: The purpose of this notice is to announce the next meeting of the Gila Box Riparian National Conservation Area Advisory Committee Meeting. The purpose of the Advisory Committee is to provide informed advice to the Bureau of Land Management (BLM) Safford Field Manager on management of public lands in the Gila Box Riparian National Conservation Area. The committee meets as needed, generally between two and four times a year.

The meeting will begin at the BLM Safford Field Office on November 3, 2000, commencing at 7 a.m. and ending at 5 p.m. The meeting's agenda will consist of a tour of portions of the Gila Box RNCA with community leaders from Graham and Greenlee counties to build support for the implementation of the Gila Box RNCA management plan. A public comment period will begin at 7 a.m. and may continue for the duration of the meeting at the discretion of the Gila Box Advisory Committee. The public may accompany the Committee and invited guests on the tour, but must provide their own transportation and lunch.

DATES: Meeting will be held on November 3, 2000, starting at 7 a.m.

FOR FURTHER INFORMATION CONTACT: Jon Collins, Gila Box RNCA Project Coordinator, BLM, Safford Field Office, 711 14th Avenue, Safford, Arizona 85546; telephone number: (520) 348–4400.

Dated: September 28, 2000.

Wayne King,

Acting Field Office Manager.

[FR Doc. 00–25911 Filed 10–6–00; 8:45 am]

BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1310–01; WYW111766]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

September 27, 2000.

Pursuant to the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), a petition for reinstatement of oil and gas lease WYW111766 for lands in Converse County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW111766 effective January 1, 2000, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Mavis Love,

Acting Chief, Leasable Minerals Section.

[FR Doc. 00–25912 Filed 10–6–00; 8:45 am]

BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–958–1430–ET; HAG01–0002; OR–55528]

Proposed Withdrawal and Opportunity for Public Meeting; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw 2,637.81 acres of public lands, and approximately 560 acres of non-Federal land, if acquired, to protect the natural and recreational values of the North Fork Hunter Creek Area of Critical Environmental Concern and the Hunter Creek Bog Area of Critical Environmental Concern. This notice closes the public lands for up to 2 years from location and entry from the mining laws. The public lands will remain open to the mineral leasing laws.

EFFECTIVE DATE: Comments and requests for a public meeting must be received by January 10, 2001.

ADDRESSES: Comments and meetings requests should be sent to the Oregon/Washington State Director, BLM, P.O. Box 2965, Portland, Oregon 97208–2965.

FOR FURTHER INFORMATION CONTACT: Allison O'Brien, BLM Oregon/Washington State Office, 503–952–6171.

SUPPLEMENTARY INFORMATION: On October 3, 2000, a petition/application was approved allowing the Bureau of Land Management to file an application to withdraw the following described public lands and non-Federal lands from entry and location under the United States mining laws (30 U.S.C. Ch. 2 (1994)), subject to valid existing rights:

Willamette Meridian

Public Lands

T. 37 S., R. 14 W.,
- Sec. 1, lots 1 to 4, inclusive, S½N½, NW¼SW¼, E½SW¼, and SE¼;
- Sec. 2, NE¼ and E½SE¼;
- Sec. 11, E½;
- Sec. 12, NE¼, E½NW¼, SW¼SW¼, E½SW¼, and SE¼;
- Sec. 13, N½N½;
- Sec. 14, NE¼NE¼ and SE¼NW¼;
- Sec. 24, NE¼NE¼, S½NE¼, NW¼NW¼, S½NW¼, SW¼, and SE¼.

The areas described aggregate approximately 2,637.81 acres in Curry County.

Non-Federal Lands:

T. 37 S., R. 14 W.,
- Sec. 1, SW¼SW¼;
- Sec. 12, W½NW¼ and NW¼SW¼;
- Sec. 13, S½N½ and SW¼;
- Sec. 24, NE¼NW¼ and NW¼NE¼.

The areas described aggregate approximately 560 acres in Curry County.

The purpose of the withdrawal would be to protect, conserve, and enhance special status species (*i.e.,* threatened, endangered, and other classifications), natural systems/plant communities, fish and wildlife habitat, known historical and cultural resources, public demand recreational values, and the substantial investment of Federal funds within the North Fork Hunter Creek and Hunter Creek Bog Area of Critical Environmental Concern (ACEC) areas.

For a period of 91 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the State Director at the address indicated above.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed action. All interested parties who desire a public meeting for the purpose of being heard on the proposed action must submit a written request to the State Director at the address indicated above within 91 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR Part 2300.

For a period of two (2) years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The temporary land uses which may be permitted during this segregative period include licenses, permits, cooperative agreements, or discretionary land use authorizations, upon approval of the authorized officer of the Bureau of Land Management.

Dated: October 3, 2000.

Sherrie L. Reid,

Acting Chief, Branch of Realty and Records Services.

[FR Doc. 00–25966 Filed 10–6–00; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

National Park Service

60-Day Notice of Intention To Request Clearance of Collection of Information; Opportunity for Public Comment

AGENCY: Department of the Interior, National Park Service, Acadia National Park.

ACTION: Notice and request for comments.

SUMMARY: The National Park Service (NPS) in conjunction with the U.S. Navy and the University of Vermont, is proposing in 2001 to conduct a survey of military and civilian employees of the U.S. Navy Base located in the Schoodic Peninsula section of Acadia National Park. In the survey, employees will be asked about their recreational use of Acadia National Park and their feelings about how Navy Base property should be used if and when it is transferred to the National Park Service.

	Estimated numbers of responses	Burden hours
Survey of Employees at the U.S. Navy Base at Schoodic, Maine	200	50

Under provisions of the Paperwork Reduction Act of 1995 and 5 CFR Part 1320, Reporting and Record Keeping Requirements, the National Park Service is soliciting comments on the need for gathering the information in the proposed surveys. The NPS also is asking for comments on the practical utility of the information being gathered; the accuracy of the burden hour estimate; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden to respondents, including use of automated information collection techniques or other forms of information technology.

The NPS goal in conducting this survey is to determine the amount and type of recreational use of Acadia National Park by U.S. Navy Base employees, and how these employees feel about potential future uses of Navy Base property if and when this property is transferred to the National Park Service

DATES: Public comments will be accepted on or before December 11, 2000.

SEND COMMENTS TO: Robert E. Manning, School of Natural Resources, University of Vermont, 356 Aiken Center, Burlington, VT 05405.

FOR FURTHER INFORMATION CONTACT: Robert E. Manning: Voice: (802) 656–3096, e-mail: <*rmanning@nature.snr.uvm.edu.*>

SUPPLEMENTARY INFORMATION:

Titles: Survey of Employees at the U.S. Navy Base at Schoodic, Maine.

Bureau form No.: None.

OMB No.: To be requested.

Expiration date: To be requested.

Type of request: Request for new clearance.

Description of need: The National Park Service needs information to plan for the potential transfer of property at the U.S. Navy Base at Schoodic, Maine to the National Park Service.

Automated data collection: At the present time, there is not an automated way to gather this information because it includes asking respondents about their use of Acadia National Park and their feelings about how Navy Base property should be used.

Description of respondents: Military and civilian employees of the U.S. Navy Base at Schoodic, Maine.

Estimated average number of respondents: 200.

Estimated average number of responses: Each respondent will respond only one time, so the number of responses will be the same as the number of respondents.

Estimated average burden hours per response: 15 minutes.

Frequency of response: 1 time per respondent.

Estimated annual reporting burden: 50 hours.

Dated: October 4, 2000.

Leonard E. Stowe,

Information Collection Clearance Officer, WASO Administrative Program Center, National Park Service.

[FR Doc. 00–25963 Filed 10–6–00; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Proposed Information Collection

AGENCY: National Park Service, DOI.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the National Park Service (NPS) is announcing its intention to renew authority for the collection of information under 36 CFR part 51, section 51.47 regarding the appeal of a preferred offeror determination, sections 51.54 and 51.55 regarding NPS approval of the construction of capital improvements by concessioners, and section 51.98 concerning recordkeeping requirements with which concessioners must comply. The collection described below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The information request describes the nature of the information collection and the expected burden and cost.

DATES: OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, public comments should be submitted to OMB by November 9, 2000, in order to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related materials, contact Wendelin M. Mann at (202) 565–1219, or electronically to *wendy_mann@nps.gov*.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 13200.8(d)). NPS has submitted a request to OMB to renew approval of the collection of information for 36 CFR part 51, section 51.47 regarding the appeal of a preferred offeror determination, sections 51.54 and 51.55 regarding NPS approval of the construction of capital improvements by concessioners, and section 51.98 concerning recordkeeping requirements with which concessioners must comply. NPS is requesting a 3-year term of approval for this information collection activity.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this collection of information is 1024–0231, and this collection is referenced in 36 CFR section 51.104(c).

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on these collections of information was published on July 12, 2000 (65 FR 43036). No comments were received. This notice provides the public with an additional 30 days in which to comment on the following information collection activity:

Title: Concession Contracts—36 CFR 51.

OMB Control Number: 1024–0231.

Summary: The regulations at 36 CFR Part 51 primarily implement Title IV of the National Parks Omnibus Management Act of 1998 (Pub. L. 105–391 or the Act), which provides new legislative authority, policies and requirements for the solicitation, award and administration of NPS concession contracts. Section 51.47 of the regulations provides any person may submit a written appeal of a decision by the Director that a concessioner is or is not a preferred offeror. Sections 51.55 and 51.56 require concessioners who construct capital improvements to submit information including, without limitation, plans, specifications, cost estimates, and construction reports for the Director's review and consideration in connection with the granting of leasehold surrender interest. Section 51.98 requires concessioners to keep

records during the term of the concession contract and for five calendar years after its termination or expiration.

Bureau Form Number: None.

Frequency of Collection: On occasion.

Description of Respondents: Persons or entities seeking a National Park Service concession contract.

Total Annual Responses: 758.

Total Annual Burden Hours: 3,276.

Total Non-hour Cost Burden: $0.

Send comments on the need for the collection of information for the performance of the functions of the agency; the accuracy of the agency's burden estimates; ways to enhance the quality, utility and clarity of the information collection; and ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information, to the following address. Please refer to OMB control number 1024–0231 in all correspondence.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identify, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

ADDRESSES: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Department of the Interior Desk Officer, 725 17th Street, NW., Washington, DC 20503. Also, please send a copy of your comments to Wendelin M. Mann, Concession Program, National Park Service, 1849 C Street, NW., Room 7313, Washington, DC 20240, or electronically to *wendy_mann@nps.gov.*

Dated: October 4, 2000.

Leonard E. Stowe,

Information Collection Office, WASO Administrative Program Center.

[FR Doc. 00–25962 Filed 10–6–00; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 30, 2000. Pursuant to section 60.13 of 36 CFR part 60, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW, NC400, Washington, DC 20240. Written comments should be submitted by October 25, 2000.

Carol D. Shull,

Keeper of the National Register.

ARIZONA

Maricopa County

Angulo—Hostetter House, 150 North Wilbur, Mesa, 00001266

ARKANSAS

Jefferson County

Strengthen the Arm of Liberty Monument—Pine Bluff, 10th Ave. bet. Georgia and State Sts., Pine Bluff, 00001265

Washington County

Strengthen the Arm of Liberty Monument—Fayetteville, North St., NE of jct. with Park Ave., Fayetteville, 00001264

CALIFORNIA

Marin County

Lyford, Benjamin and Hilarita, House, 376 Greenwood Beach Rd., Tiburon, 00001268

Riverside County

Victoria Avenue, Victoria Ave., from Arlington Ave. to Boundary Ln., Riverside, 00001267

Sacramento County

Runyon House, 12865 River Rd., Courtland, 00001270

IDAHO

Shoshone County

Chicago, Milwaukee, St. Paul and Pacific Railroad Company Historic District, Idaho Panhandle National Forest, Avery, 00001269

MARYLAND

Carroll County

Warfield Complex, Hubner, and T Buildings, Springfield Hospital Center, Sykesville, 00001271

MASSACHUSETTS

Essex County

Norwood—Hyatt House, 704 Washington St., Gloucester, 00001272

Middlesex County

Marcia Browne Junior High School, 295 Broadway, Malden, 00001273

NEW MEXICO

Taos County

Black Copper Mine and Stamp Mill Historic District, Black Copper Canyon Rd., Red River, 00001274

NEW YORK

Albany County

Lil's Diner, 893 Broadway, Albany, 00001278

Richmond County

Our Lady of Mount Carmel Grotto, 36 Amity St., Staten Island, 00001276

Rockland County

Peck, Henry M., House, US 9W at Helen Hayes Hospital, Haverstraw, 00001279

Ulster County

Bruynswick School No. 8, 2146 Bruynswick Rd., Shawangunk, 00001277

Trapps Mountain Hamlet Historic District, Off NY 44/55, Gardiner, 00001275

[FR Doc. 00–25895 Filed 10–6–00; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

Sunshine Act Meeting

TIME AND DATE: October 16, 2000 at 11 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: none.
2. Minutes.
3. Ratification List.
4. Inv. Nos. 731–TA–474–475 (Review) (Chrome-Plated Lug Nuts from China and Taiwan)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on October 25, 2000.)
5. Outstanding action jackets:

(1.) Document No. GC–00–070: Approval of final disposition of investigation in Inv. No. 337–TA–395 (Certain EPROM, EEPROM, Flash Memory, and Flash Microcontroller Semiconductor Devices and Products Containing Same).

(2.) Document No. GC–00–071: Administrative matters.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: October 4, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–26018 Filed 10–5–00; 11:04 am]

BILLING CODE 7020–02–U

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response Compensation and Liability Act (''CERCLA'')

Consistent with Departmental policy, 28 CFR 50.7, and under Section 122(d) of CERCLA, 42 U.S.C. 9622(d), notice is hereby given that a proposed consent decree in *United States and State of New York* v. *City of Batavia, et al.*, Civ. No. 00–CV–0838E(SR), was lodged on September 29, 2000 with the United States District Court for the Western District of New York. The Consent Decree concerns hazardous waste contamination at the Batavia Landfill Superfund Site (the ''Site''), located in the Town of Batavia, Genesee County, New York. The Consent Decree would resolve the liability in connection with the Site for implementation of response actions, reimbursement of response costs incurred and to be incurred by the United States, and natural resource damages, as to twenty defendants against whom the United States filed a complaint on behalf of the United States Environmental Protection Agency (''EPA'') and the Secretary of the United States Department of the Interior (''DOI''). The Consent Decree would also resolve the liability to the State of New York of essentially the same group of defendants for reimbursement of response costs incurred by the State of New York in connection with the Site. In addition, the Consent Decree would resolve any liability the United States on behalf of the Veterans Administration may have for response actions, reimbursement of response costs, or natural resource damages in connection with the Site.

The Consent Decree requires three of the settling defendants—the City of Batavia, the Town of Batavia, and N L Industries, Inc. (''the Settling Work Defendants'')—to perform the remedial action at the Site selected by EPA in its 1995 Record of Decision at an estimated cost of approximately $12.78 million and to reimburse the United States approximately three-fourths of the United States' future response costs in connection with the Site. The Settling Work Defendants will also create six acres of wetlands and pay $51,000 in full reimbursement of the DOI's past costs of assessing natural resource damages and estimated future costs of monitoring wetlands work at the Site. The United States will fund approximately one-fourth of this settlement, by relinquishing its claim for approximately $4 million in past response costs incurred by EPA in connection with the Site, and by pre-authorizing the Settling Work Defendants to apply for up to approximately $808,000 in reimbursement from the Hazardous Substance Superfund (established by 26 U.S.C. 9507), and for approximately one-fourth of any excess of costs incurred by the Settling Work Defendants above the projected cost total for the remedial action. The other settling defendants, and the United States on behalf of the Veterans Administration, will resolve their liability by making payments in accordance with a private settlement agreement among the defendants into an escrow account established by the Settling Work Defendants. The United States' payment to the escrow account on behalf of the Veterans Administration is $565,226.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States and State of New York* v. *City of Batavia, et al.*, DOJ Ref. #90–11–2–861.

The proposed consent decree may be examined at the office of the United States Attorney for the Western District of New York, 138 Delaware Avenue, Buffalo, New York 14202 (contact Assistant United States Attorney Mary K. Roach); and the Region II Office of the Environmental Protection Agency, 290 Broadway, New York, New York, 10007–1866 (contact Assistant Regional Counsel Beverly Kolenberg). A copy of the proposed consent decree may be obtained by mail from the Consent Decree Library, P.O. Box 7611, Washington, DC 20044–7611. In requesting a copy please refer to the referenced case and enclose a check in the amount of $25.25 (25 cents per page reproduction costs) for the Consent Decree without Appendices, or in the amount of $68.25 for the Consent Decree with all Appendices, payable to the Consent Decree Library.

Bruce S. Gelber,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–25902 Filed 10–6–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Proposed Agreement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given of a proposed Prospective Purchaser Agreement and Covenant Not to Sue between the United States on behalf of the U.S. Environmental Protection Agency (''EPA'') and Renaissance Land Associates, LP, and Renaissance Land Associates Acquisition Corporation (hereinafter referred to as ''Purchasers'').

The proposed agreement would allow Purchasers to acquire title to approximately 5 acres of land (''the Property'') within the Crater Resources Superfund Site (''Site'') located in King of Prussia, Upper Merion Township, Pennsylvania, without becoming liable under CERCLA (the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. 9601 *et seq.*) for pre-existing contamination at the Site. Purchasers plan to develop the Property for commercial office uses. In consideration of the Agreement, Purchasers will pay the United States $100,000 to be used as partial reimbursement for past response costs incurred at the Site. In addition, Purchasers will conduct any necessary sampling and cleanup of contamination located on the Property.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed agreement. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *In the matter of Crater Resources Superfund Site—Agreement and Covenant Not To Sue*, Docket Number CERC–PPA–2000–0010, DOJ Ref. #90–11–2–1283.

The proposed Agreement may be examined and copied at the Region III Office of the Environmental Protection Agency, c/o Yvette Hamilton-Taylor, Senior Assistant Regional Counsel, 1650 Arch Street, Philadelphia, PA 19103. A copy of the proposed Agreement may be obtained by mail from the Consent

Decree Library, P.O. Box No. 7611, Washington, D.C. 20044. In requesting a copy, please refer to the referenced matter and enclose a check in the amount of $9.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Bruce Gelber,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–25903 Filed 10–6–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Therm-O-Rock West, Inc.*, Civil No. 00–1849 was lodged on September 28, 2000, with the United States District Court for District of Arizona.

The consent decree settles claims for civil penalties and injunctive relief against Therm-O-Rock for: civil penalties and injunctive relief pursuant to Section 113(b) of the Clean Air Act, 42 U.S.C. 7413(b), based on Therm-O-Rock's violations of Subparts A and UUU of the New Source Performance Standards (''NSPS''), 40 CFR Part 60. Pursuant to the consent decree Therm-O-Rock will pay a civil penalty of $25,000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Therm-O-Rock West, Inc.*, DOJ Ref. #90–5–2–1–2233.

The proposed consent decree may be examined at the office of the United States Attorney, for the District of Arizona, 230 North First Ave Phoenix, AZ 85025; and the Region IX Office of the Environmental Protection Agency, 75 Hawthorne Street San Francisco, CA. A copy of the proposed consent decree may be obtained by mail from the Consent Decree Library, P.O. Box 7611, Washington, D.C. 20044–7611. In requesting a copy please refer to the referenced case and enclose a check in the amount of $3.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Walker B. Smith,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–25899 Filed 10–6–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act and Resource Conservation and Recovery Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on September 28, 2000, a proposed Consent Decree in *United States* v. *TPI Petroleum, Inc.,* Civil Action No. 1:00–CV–732, was lodged with the United States District Court for the Western District of Michigan.

The Consent Decree resolves certain claims of the United States against TPI Petroleum, Inc. under Sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a) and Section 7003 of the Resource Conservation and Recovery Act (''RCRA''), 42 U.S.C. 6973 at the former Organic Chemical, Inc. facility (''the Site'') in Grandville, Kent County, Michigan. The defendant has been named as a former owner/operator of the Site at the time that hazardous substances were disposed of at the Site.

The settlement requires the settling defendant to make payment of $674,431, plus interest from June 1998, for past response costs incurred by the U.S. Environmental Protection Agency in connection with the Site and for settling defendant to perform the soil component of EPA's selected second phase or Operable Unit for the Site's remediation.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, United States Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044–7611, and should refer to *United States* v. *TPI Petroleum, Inc.,* Civil Action No. 1:00–CV–732, and the Department of Justice Reference No. 90–11–3–990A. Commenters may request an opportunity for a public hearing in the affected area, in accordance with Section 7003(d) of RCRA, 42 U.S.C. 6973(d), by contacting Jerome Kujawa (EPA Region 5) at (312) 886–6731.

The proposed Consent Decree may be examined at the Office of the United States Attorney for the Western District of Michigan, 330 Ionia Avenue, NW., Suite 501, Grand Rapids, Michigan 49503; the Region 5 Office of the United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590. A copy of the proposed Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044–7611. In requesting a copy, please refer to DJ #90–11–3–990A, and enclose a check in the amount of $18.50 (25 cents per page for reproduction costs), payable to the Consent Decree Library.

Bruce Gelber,

Deputy Chief, Environmental Enforcement Section, Environmental and Natural Resources Division.

[FR Doc. 00–25901 Filed 10–6–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on October 2, 2000, a proposed Consent Decree in *United States* v. *Whiteford Kenworth, Inc., et al.,* Civil Action No. 3:99 CV 0055AS, was lodged with the United States District Court for teh Northern District of Indiana.

The Consent Decree settles an action brought under Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601, *et seq.,* (''CERCLA'') for the recovery of past costs incurred by the United States in responding to releases or threatened releases of hazardous substances at the Whiteford Sales & Service Site, located in South Bend, Indiana. The proposed settlement set forth in the Consent Decree addresses the liability of four defendants in this action, each of which has been named as an owner and/or operator of the Site. Under the terms of the proposed decree, the settling defendants will pay the United States a total of $350,000 in settlement of the United States' past costs claims against them.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the Consent Decrees. Comments should be addressed

to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Washington, D.C. 20044–7611, and should refer to *United States* v. *Whiteford Kenworth, Inc., et al.,* D.J. Ref. 90–11–3–06145.

The Consent Decree may be examined at the office of the United States Attorney, Northern District of Indiana, 204 South Main Street, South Bend, Indiana 466001, and at United States Environmental Protection Agency Region V, 77 West Jackson Boulevard, Chicago, Illinois 60604. A copy of the proposed consent decree may also be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC. 20044. In requesting a copy please refer to the referenced case and enclose a check in the amount of $5.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Bruce S. Gelber,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–25900 Filed 10–6–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Catalytica Advanced Technologies

Notice is hereby given that, on July 24, 2000, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Catalytica Advanced Technologies has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Catalytica Advanced Technologies, Inc., Mountain View, CA; and Argonaut Technologies, Inc., San Carlos, CA. The nature and objectives of the venture are to conduct research on the discovery and development of emission control catalysts for lean burn engines using a novel, rapid Catalyst Development Engine. The activities of this Joint Venture project will be partially funded by an award from the Advanced Technology Program, National Institute of Standards and Technology, Department of Commerce.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–25898 Filed 10–6–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—International Pharmaceutical Aerosol Consortium for Toxicology Testing of HFA–134a (IPACT–I)

Notice is hereby given that, on July 6, 2000, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), The International Pharmaceutical Aerosol Consortium for Toxicology Testing of HFA–134a (''IPACT–I'') filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in name of some of its members.

The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Astra AB, a member of IPACT–I, is now known as AstraZeneca AB, Sodertalje, Sweden; Rhone-Poulenc Rorer Pharmaceuticals, Inc., a member of IPACT–I, is now known as Aventis Pharmaceuticals Products, Inc., Collegeville, PA; and Fisons plc, a member of IPACT–I, is now known as Fisons Ltd., Holmes Chapel, England, United Kingdom.

No other changes have been made in either the membership or planned activity of IPACT–I. Membership in this joint research project remains open, and IPACT–I intends to file additional written notification disclosing all changes in membership.

On August 7, 1990, IPACT–I filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 6, 1990 (55 Fed. Reg. 36710).

The last notification was filed with the Department on December 3, 1997. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on February 19, 1998 (63 FR 8477).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–25896 Filed 10–6–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Personalization Consortium, Inc.

Notice is hereby given that, on September 13, 2000, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Personalization Consortium, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Charles Schwab & Co., Inc., San Francisco, CA; Vivaldi Networks, Inc., Menlo Park, CA; Angara E-Commerce Services, Mountain View, CA; Broadbase Software, Menlo Park, CA; Cyber Dialogue, New York, NY; Eucid Inc., Chicago, IL; Derivion, Markham, Ontario, Canada; Quadstone, Boston, MA; SilverStream Software, Inc., Billerica, MA; Hot Data, Inc., Austin, TX; Naviant, Newtown Square, PA; Accrue Software, Fremont, CA; Commerce Tone, Inc., Burlington, MA; Yo.com, New York, NY; Insight First, New York, NY; Art Technology Group, Inc., Cambridge, MA; and Aptilon Health, Boston, MA have been added as parties to this venture. The following members have changed their names: PrivaSeek, Broomfield, CO to Persona, Inc., Broomfield, CO; and CERES RO, Relationship Technology Solutions by NCR, Raleigh, NC to NCR, Raleigh, NC. Also, KPMG Consulting, LLC, Mountain View, CA have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Personalization Consortium, Inc. intends to file additional written notification disclosing all changes in membership.

On June 15, 2000, Personalization Consortium, Inc. filed its original

notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on August 11, 2000 (65 FR 49266).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–25897 Filed 10–6–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

[OJP (OJJDP)–1304]

Meeting of the Coalition for Juvenile Justice

AGENCY: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Notice of meeting.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention is announcing the meeting of the Coalition for Juvenile Justice.

DATES: The meeting dates are:

1. Thursday, November 9, 2000, from 9:00 a.m. until 10:00 p.m., ET.
2. Friday, November 10, 2000, from 8:30 a.m. until 6:30 p.m., ET.
3. Saturday, November 11, 2000, from 8:00 a.m. until 6:30 p.m., ET.
4. Sunday, November 12, 2000, from 8:00 a.m. until 1:00 p.m., ET.

ADDRESS: All meetings will be held at the Crowne Plaza Hotel, 700 N. Westshore Boulevard, Tampa, Florida 33609.

FOR FURTHER INFORMATION CONTACT: For information about how to attend this meeting, contact Freida Thomas, Grants Management Specialist, Office of Juvenile Justice and Delinquency Prevention, 810 7th Street, NW., Washington, DC 20531; telephone: 202–307–5924. (This is not a toll-free number.) Questions may also be submitted by fax (202–307–2819) or e-mail (Freida@ojp.usdoj.gov).

SUPPLEMENTARY INFORMATION: The Coalition for Juvenile Justice, established pursuant to section 9 of the Federal Advisory Committee Act, 5 U.S.C. App. 2, is meeting to carry out its advisory functions under section 5651 of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. 5601 *et seq.* The purpose of this meeting is to discuss and adopt recommendations from members regarding the committee's responsibility to advise the OJJDP Administrator, the President, and Congress about State perspectives on the operation of OJJDP and Federal legislation pertaining to juvenile justice and delinquency prevention. This meeting will be open to the public.

Dated: October 3, 2000.

John J. Wilson,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 00–25872 Filed 10–6–00; 8:45 am]

BILLING CODE 4410–18–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 00–120]

NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee, NASA–NIH Advisory Subcommittee and Life Sciences Advisory Subcommittee; Joint Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee, NASA–NIH Advisory Subcommittee and Life Sciences Advisory Subcommittee Joint Meeting.

DATES: Wednesday, October 18, 2000, 8:00 a.m. to 5:00 p.m.

ADDRESSES: National Aeronautics and Space Administration Headquarters, 300 E Street, SW., MIC–3, Room 3H46, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. David Tomko, Code UL, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0220.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Action Status
—NASA Life Sciences Division Update
—Biology and Life Sciences at NASA
—Status of Studies on ISS NGO
—Life Sciences Division FY'00 Performance Metrics
—NASA–NIH Interaction Report
—Preparation of Committee Findings and Recommendations
—Review of Committee Findings and Recommendations

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: October 2, 2000.

Beth M. McCormick,

Federal Advisory Committee Act Management Officer, National Aeronautics and Space Administration.

[FR Doc. 00–25814 Filed 10–6–00; 8:45 am]

BILLING CODE 7510–01–U

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 00–121]

NASA Advisory Council (NAC), Technology and Commercialization Advisory Committee (TCAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Technology and Commercialization Advisory Committee.

DATES: Wednesday, November 15, 2000, 8:30 a.m. to 5 p.m. and Thursday, November 16, 2000, 8 a.m. to 12 Noon.

ADDRESSES: John H. Glenn Research Center, Building 3, Room 225, 2100 Brookpark Road, Cleveland, OH 44135.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory M. Reck, Code R, National Aeronautics and Space Administration, Washington, DC 20546 (202/358–4700).

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Proposed TCAC/Aero-Space Technology Advisory Committee (ASTAC) Changes
—Overview of GRC Activities
—GRC Technology Programs
—Technology Implementation at GRC

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: October 2, 2000.

Beth M. McCormick,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 00–25815 Filed 10–6–00; 8:45 am]

BILLING CODE 7510–01–U

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Combined Arts Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that three meetings of the Combined Arts Advisory Panel to the National Council on the Arts will be held at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, D.C., 20506 as follows:

Folk & Traditional Arts section (A) (Access, Education, and Heritage/Preservation categories)—October 23–25, 2000, Room 716. A portion of this meeting, from 1:15 p.m. to 2:15 p.m. on October 24th, will be open to the public for policy discussion. The remaining portions of this meeting, from 9:00 a.m. to 6:30 p.m. on October 23rd, from 9:00 a.m. to 1:15 p.m. and 2:15 p.m. to 6:30 p.m. on October 24th, and from 9:00 a.m. to 5:30 p.m. on October 25th, will be closed.

Local Arts Agencies section (Access, Education, and Heritage/Preservation categories)—October 26–27, 2000, Room 730. A portion of this meeting, from 10:30 a.m. to 12:00 p.m. on October 27th, will be open to the public for policy discussion. The remaining portions of this meeting, from 9:00 a.m. to 5:00 p.m. on October 26th and from 9:00 a.m. to 10:30 a.m. and 12:00 p.m. to 3:00 p.m. on October 27th, will be closed.

Media Arts section (Access, Education, and Heritage/Preservation categories)—October 24–25, 2000, Room 714. A portion of this meeting, from 2:45 p.m. to 3:45 p.m. on October 25th, will be open to the public for policy discussion. The remaining portions of this meeting, from 9:00 a.m. to 6:00 p.m. on October 24th and from 9:00 a.m. to 2:45 p.m. and 3:45 p.m. to 5:30 p.m. on October 26th, will be closed.

The closed portions of these meetings are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of May 12, 2000, these sessions will be closed to the public pursuant to (c)(4)(6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels that are open to the public, and, if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, D.C., 20506, or call 202/682–5691.

Dated: October 3, 2000.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 00–25816 Filed 10–6–00; 8:45 am]

BILLING CODE 7537–01–U

NATIONAL LABOR RELATIONS BOARD

Privacy Act of 1974, Publication of Revised Systems of Records Notices

AGENCY: National Labor Relations Board (NLRB).

ACTION: Revised publication of Systems of Records Notices NLRB–5, Employment and Performance Records, Attorney and Field Examiners, and NLRB–6, Employment and Performance Records, Nonprofessionals and Nonlegal Professionals.

SUMMARY: The Privacy Act of 1974, as amended, requires that each agency publish a notice of a proposed new system of records, as well as proposals to revise existing systems of records. This notice alters two existing Privacy Act Systems of Records Notices, NLRB–5, Employment and Performance Records, Attorney and Field Examiners, and NLRB–6, Employment and Performance Records, Nonprofessionals and Nonlegal Professionals. This change is accomplished by deleting one routine use; dividing one routine use into two distinct uses for purposes of clarity; amending the language of five routine uses, updating the addresses of systems locations and updating citations referring to 29 CFR 102.117; as well as making several insignificant administrative language revisions.

All persons are advised that in the absence of submitted comments, views, or arguments considered by the NLRB as warranting modification of the notices to be published, it is the intention of the NLRB that the notices shall be effective upon expiration of the comment period without further action by this Agency.

DATES: The amended systems of records notices will become effective without further notice November 9, 2000 unless comments are received on or before that date which result in a contrary determination.

ADDRESSES: Written comments on the amended Privacy Act Systems of Records Notices may be submitted to the Executive Secretary, National Labor Relations Board, 1099 14th Street, NW, Room 11600, Washington, DC 20570–0001.

Copies of all such communications will be available for examination by interested persons during normal business hours (8:30 a.m. to 5 p.m. Monday through Friday, excluding Federal holidays).

FOR FURTHER INFORMATION CONTACT: John J. Toner, Executive Secretary, National Labor Relations Board, 1099 14th Street, NW, Room 11600, Washington, DC 20570–0001.

SUPPLEMENTARY INFORMATION: The following changes have been made to both existing NLRB Systems of Records Notices, NLRB–5, Employment and Performance Records, Attorneys and Field Examiners, and NLRB–6, Employment and Performance Records, Nonprofessionals and Nonlegal Professionals.

1. Routine use 1 has been deleted because the specified ''need to know'' in it is authorized by 5 U.S.C. 552a(b)(1) and (5).

2. The language of routine use 3 has been amended to specify that on disclosure to an inquiring congressional office, the subject individual must be the constituent about whom the records are maintained. Routine use 3 has been renumbered as 2.

3. Routine use 4 has been divided into two distinct uses for purposes of clarity, one dealing solely with arbitrators and the other with officials of labor organizations. The language has been amended to conform to the intent of routine use (e) in the Government-wide system of records OPM/GOVT–2, Employee Performance File System Records, to eliminate the NLRB requirement that the information that may be disclosed to a labor organization ''shall be furnished in depersonalized form, *i.e.,* without personal identifiers.'' Routine use (e) is a Government-wide system of records OPM/GOVT–2 which provides that the information will be ''disclosed to an arbitrator to resolve disputes under a negotiated grievance procedure or to officials of labor

organizations under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation.'' The NLRB is deleting the requirement that ''[W]henever feasible and consistent with the responsibilities under the Act, such information shall be furnished in depersonalized form, *i.e.,* without personal identifiers,'' a requirement not contained in OPM/GOVT–2 routine use (e). Routine use 4 has been renumbered 3 and 4.

4. Routine use 5 has been amended to specify more exactly the categories of users and the information that may be disclosed, and has been renumbered 5.

5. Routine use 6 has been amended by changing reference from ''Agency'' to ''NLRB'' for more specificity, and has been renumbered 6.

6. Routine use 7 has been amended to specify more exactly the information that may be disclosed to a court or an adjudicative body in the course of presenting evidence or argument including disclosure to opposing counsel or witnesses in the course of civil discovery, and has been renumbered 7.

7. The addresses of systems locations and managers in NLRB–5, and NLRB–6 has been changed from ''NLRB, 1717 Pennsylvania Avenue, NW, Washington, DC 20570–0001'' to ''NLRB, 1099 14th Street, NW, Washington, DC 20570–0001.''

8. Reference to 29 CFR 102.117 citations have been changed to read as follows for the paragraphs in Notification Procedures, 29 CFR 102.117(f); Records Access Procedures, 29 CFR 102.117(g) and (h); and Contesting Records Procedures, 29 CFR 102.117(i).

A report of the proposal to revise these systems of records notices was filed pursuant to 5 U.S.C. 552(r) with Congress and the Office of Management and Budget.

Dated: Washington, DC, September 28, 2000.

By direction of the Board.

John J. Toner,

Executive Secretary.

NLRB–5

SYSTEM NAME:

Employment and Performance Records, Attorneys and Field Examiners.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of Executive Assistant, Division of Operations Management; Board Members' Offices; Office of Representation Appeals; Office of the Solicitor, NLRB, 1099 14th Street, NW, Washington, DC 20570–0001.

Washington and Field Offices are authorized to maintain the records or copies of the records for current and former NLRB employees of that office. See attached appendix for addresses of the Washington and Field Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Attorneys and Field Examiners in offices under the general supervision of the General Counsel; current and former Attorneys employed on Board Members' Staffs, in the Office of the Solicitor, and in the Office of Representation Appeals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include copies of employment applications, copies of personnel records, educational transcripts, resumes, employment interview reports, evaluation reports, career development appraisals, recommendations concerning promotion, copies of the official personnel file, correspondence, memoranda, and other relevant information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 4301 *et seq.;* 29 U.S.C. 153(D), 154, 159, 160.

PURPOSES:

These records document employee actions and performance appraisals.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records, or information contained therein may be disclosed to:

1. Individuals who have a need for the information in connection with the processing of an appeal, grievance, or complaint.

2. A Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the written request of the constituent about whom the record is maintained.

3. Officials of labor organizations recognized under 5 U.S.C. Chapter 71, when disclosure is not prohibited by law; and the data is normally maintained by the Agency in the regular course of business and is reasonably available and necessary for full and proper discussion, understanding and negotiation of subjects within the scope of collective bargaining. The foregoing shall have the identical meaning as 5 U.S.C. 7114(b)(4) as interpreted by the FLRA and the courts.

4. An arbitrator to resolve disputes under a negotiated grievance arbitration procedure.

5. Other agencies, offices, establishments, and authorities, whether Federal, State, or local, authorized or charged with the responsibility to investigate, litigate, prosecute, enforce, or implement a statute, rule, regulation, or order, where the record or information, by itself or in connection with other records or information, indicates a violation or potential violation of law, whether criminal, civil, administrative, or regulatory in nature, and whether arising by general statute, or particular program statute, or by regulation, rule or order issued pursuant thereto.

6. The Department of Justice for use in litigation when either: (a) The NLRB or any component thereof; (b) any employee of the NLRB in his or her official capacity; (c) any employee of the NLRB in his or her individual capacity where the Department of Justice has agreed to represent the employee; or (d) the United States Government, where the NLRB determines that litigation is likely to affect the NLRB or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the NLRB to be relevant and necessary to the litigation, provided that in each case the Agency determines that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

7. A court, magistrate, administrative tribunal, or other adjudicatory body in the course of presenting evidence or argument, including disclosure to opposing counsel or witness in the course of civil discovery, litigation, or settlement negotiations, or in connection with criminal law proceedings, when: (a) The NLRB or any component thereof; or (b) any employee of the NLRB in his or her official capacity; (c) any employee of the NLRB in his or her individual capacity, where the NLRB has agreed to represent the employee; or (d) the United States Government, is a party to litigation or has interest in such litigation, and determines that such disclosure is relevant and necessary to the litigation and that the use of such records is therefore deemed by the NLRB to be for a purpose that is compatible with the purpose for which the records were collected.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper including forms, letters, and memoranda, and on electronic automated media.

RETRIEVABILITY:

Alphabetically by name.

SAFEGUARDS:

Maintained in file cabinets. During duty hours cabinets are under the surveillance of personnel charged with custody of the records and after duty hours are behind locked doors. Access is limited to personnel having a need for access to perform their official functions. Computer records can be accessed only through use of confidential procedures and passwords. Disks are limited to those with access codes and are stored in a locked room during and after duty hours.

RETENTION AND DISPOSAL:

Retained and disposed of in accordance with applicable General Records Schedules issued by the National Archives and Records Administration, and the Office of Personnel Management.

SYSTEM MANAGER(S) AND ADDRESS:

1. Attorneys and Field Examiners under supervision of the General Counsel—Executive Assistant, Division of Operations Management, NLRB, 1099 14th Street, NW., Washington, DC 20570–0001.

2. Attorneys under supervision of a Board Member—Chief Counsel to that Board Member, NLRB, 1099 14th Street, NW, Washington, DC 20570–0001.

3. Attorneys under supervision of the Director, Office of Representation Appeals—Director, Office of Representation Appeals, NLRB, 1099 14th Street, NW., Washington, DC 20570–0001.

4. Attorneys under supervision of the Solicitor—Solicitor, NLRB, 1099 14th Street, NW., Washington, DC 20570–0001.

See the attached appendix for titles and addresses of officials responsible for this system at their location.

NOTIFICATION PROCEDURES:

An individual may inquire as to whether this system contains a record pertaining to him or her by directing a request to the appropriate System Manager in accordance with the procedures set forth in 29 CFR 102.117(f).

RECORD ACCESS PROCEDURES:

An individual seeking to gain access to records in this system pertaining to him or her should contact the appropriate System Manager in accordance with the procedures set forth in 29 CFR 102.117(g) and (h).

CONTESTING RECORD PROCEDURES:

An individual may request amendment of a record pertaining to such individual maintained in this system by directing a request to the appropriate System Manager in accordance with the procedures set forth in 29 CFR 102.117(i).

RECORD SOURCE CATEGORIES:

The individual, the Personnel Branch, educational institutions, interviewers, evaluators, references, previous employers and supervisors.

NLRB–6

SYSTEM NAME:

Employment and Performance Records, Nonprofessionals and Nonlegal Professionals.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records are authorized to be maintained for current and former NLRB employees in all Agency offices. See the attached appendix for the addresses of these offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former nonprofessional employees and nonlegal professional employees of the Agency.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include copies of employment applications, copies of personnel records, educational transcripts, resumes, employment interview reports, evaluation reports, career development appraisals, recommendations concerning promotion, copies of the official personnel file, correspondence, memoranda, and other relevant information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 4301 *et seq.;* 29 U.S.C. 153(d), 154, 159, and 160.

PURPOSE(S):

These records document employee actions and performance appraisals.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records, or information therefrom, are disclosed to:

1. Individuals who have a need for the information in connection with the processing of an appeal, grievance, or complaint.

2. A Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the written request of the constituent about whom the record is maintained.

3. Officials of labor organizations recognized under 5 U.S.C. Chapter 71, when disclosure is not prohibited by law; and the data is normally maintained by the Agency in the regular course of business and is reasonably available and necessary for full and proper discussion, understanding and negotiation of subjects within the scope of collective bargaining. The foregoing shall have the identical meaning as 5 U.S.C. 7114(b)(4) as interpreted by the FLRA and the courts.

4. An arbitrator to resolve disputes under a negotiated grievance arbitration procedure.

5. Other agencies, offices, establishments, and authorities, whether Federal, State, or local, authorized or charged with the responsibility to investigate, litigate, prosecute, enforce, or implement a statute, rule, regulation, or order, where the record or information, by itself or in connection with other records or information, indicates a violation or potential violation of law, whether criminal, civil, administrative, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto.

6. The Department of Justice for use in litigation when either: (a) The NLRB or any component thereof; (b) any employee of the NLRB in his or her official capacity; (c) any employee of the NLRB in his or her individual capacity where the Department of Justice has agreed to represent the employee; or (d) the United States Government where the NLRB determines that litigation is likely to affect the NLRB or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the NLRB to be relevant and necessary to the litigation, provided that in each case the Agency determines that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

7. A court, magistrate, administrative tribunal, or other adjudicatory body in the course of presenting evidence or argument, including disclosure to

opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, or in connection with criminal law proceedings, when: (a) the NLRB or any component thereof; or (b) any employee of the NLRB in his or her official capacity; or (c) any employee of the NLRB in his or her individual capacity, where the NLRB has agreed to represent the employee; or (d) the United States Government, is a party to litigation or has interest in such litigation, and determines that such disclosure is relevant and necessary to the litigation and that the use of such records is therefore deemed by the Agency to be for a purpose that is compatible with the purpose for which the records were collected.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper including forms, letters, memoranda, and on electronic automated media.

RETRIEVABILITY:

Alphabetically by name.

SAFEGUARDS:

Maintained in file cabinets. During duty hours cabinets are under the surveillance of personnel charged with the custody of the records, and after duty hours are behind locked doors. Access is limited to personnel having a need for access to perform their official functions. Computer records can be accessed only through use of confidential procedures and passwords. Disks are limited to those with access codes and are stored in a locked room during and after duty hours.

RETENTION AND DISPOSAL:

Retained and disposed of in accordance with applicable General Records Schedules issued by the National Archives and Records Administration and the Office of Personnel Management.

SYSTEM MANAGER(S) AND ADDRESS:

See the attached appendix for the titles and addresses of officials responsible for this system at their locations.

NOTIFICATION PROCEDURES:

An individual may inquire as to whether this system contains a record pertaining to him or her by directing a request to the appropriate System Manager in accordance with the procedures set forth in 29 CFR 102.117(f).

RECORD ACCESS PROCEDURES:

An individual seeking to gain access to records in this system pertaining to him or her should contact the appropriate System Manager in accordance with the procedures set forth in 29 CFR 102.117(g) and (h).

CONTESTING RECORD PROCEDURES:

An individual may request amendment of a record pertaining to such individual maintained in this system by directing a request to the appropriate System Manager in accordance with the procedures set forth in 29 CFR 102.117(i).

RECORD SOURCE CATEGORIES:

The individual, the Personnel Branch, professional employees, educational institutions, interviewers, evaluators, references, previous employers and supervisors.

Appendix

Names and Addresses of NLRB Offices referenced in Notice of Records System shown above.

NLRB HEADQUARTERS OFFICES

1099 14th Street, NW, Washington, DC 20570–0001

OFFICES OF THE BOARD

Members of the Board
Executive Secretary, Office of the Executive Secretary
Director, Office of Representation Appeals
Director, Division of Information
Solicitor
Inspector General, Office of Inspector General
Chief Administrative Law Judge, 1099 14th Street, NW, Room 5400 East, Washington, DC 20570–0001
Associate Chief Administrative Law Judge, San Francisco Judges, 901 Market Street, Suite 300, San Francisco, California 94103–1779
Associate Chief Administrative Law Judge, New York Judges, 120 West 45th Street, 11th Floor, New York, New York 10036–5503
Associate Chief Administrative Law Judge, Atlanta Judges, Peachtree Summit Building, 401 W. Peachtree Street, NW, Suite 1708, Atlanta, Georgia 30308–3510

OFFICES OF THE GENERAL COUNSEL

General Counsel
Associate General Counsel, Division of Operations Management
Associate General Counsel, Division of Advice
Associate General Counsel, Division of Enforcement Litigation
Director, Division of Administration
Director, Equal Employment Opportunity

NLRB FIELD OFFICES

Regional Director, Region 1, Thomas P. O'Neal, Jr., Federal Office Building, 10 Causeway Street, 6th Floor, Boston, Massachusetts 02222–1072
Regional Director, Region 2, Jacob K. Javits Federal Building, 26 Federal Plaza, Room 3614, New York, New York 10278–0104
Regional Director, Region 3, Thaddeus J. Dulski Federal Building, 111 West Huron Street, Room 901, Buffalo, New York 14202–2387
Resident Officer, Albany Resident Office, Leo W. O'Brien Federal Building, Clinton Avenue at N. Pearl Street, Room 342, Albany, New York 12207–2350
Regional Director, Region 4, One Independence Mall, 615 Chestnut Street, 7th Floor, Philadelphia, Pennsylvania 19106–4404
Regional Director, Region 5, The Appraisers Store Building, 103 South Gay Street, 8th Floor, Baltimore, Maryland 21202–4026
Resident Officer, Franklin Court Building, 1099 14th Street, NW, Suite 5530, Washington, DC 20570–0001
Regional Director, Region 6, William S. Moorehead Federal Building, 1000 Liberty Avenue, Room 1501, Pittsburgh, Pennsylvania 15222–4173
Regional Director, Region 7, Patrick V. McNamara Federal Building, 477 Michigan Avenue, Room 300, Detroit, Michigan 48226–2569
Resident Officer, Grand Rapids Resident Office, The Furniture Company Building, 82 Ionia Northwest, Room 330, Grand Rapids, Michigan 49503–3022
Regional Director, Region 8, Anthony J. Celebrezze Federal Building, 1240 East 9th Street, Room 1695, Cleveland, Ohio 44199–2086
Regional Director, Region 9, John Weld Peck Federal Building, 550 Main Street, Room 3003, Cincinnati, Ohio 45202–3271
Regional Director, Region 10, Harris Tower, 233 Peachtree Street, NE, Suite 1000, Atlanta, Georgia 30303–1504
Resident Officer, The Burger-Phillips Centre, 1900 3rd Avenue North, Suite 311, Birmingham, Alabama 35203–3511
Regional Director, Region 11, Republic Square, Suite 200, 4035 University Parkway, Winston-Salem, North Carolina 27106–3325
Regional Director, Region 12, South Trust Plaza, Suite 530, 201 East Kennedy Boulevard, Tampa, Florida 33602–5824
Resident Officer, Jacksonville Resident Office, Federal Building, 400 West Bay Street, Room 214, Box 35091, Jacksonville, Florida 32202–4412
Resident Officer, Miami Resident Office, Federal Building, 51 Southwest 1st Avenue, Room 1320, Miami, Florida 33130–1608
Regional Director, Region 13, 200 West Adams Street, Suite 800, Chicago, Illinois 60606–5208
Regional Director, Region 14, 1222 Spruce Street, Room 8.302, Saint Louis, Missouri 63103–2829
Regional Director, Region 15, 1515 Poydras Street, Room 610, New Orleans, Louisiana 70112–3723
Regional Director, Region 16, Federal Office Building, 819 Taylor Street, Room 8A24,

Fort Worth, Texas 76102–6178
Resident Officer, Houston Resident Office, Mickey Leland Federal Building, 1919 Smith Street—Suite 1545, Houston, Texas 77002–2649
Resident Officer, San Antonio Resident Office, 615 E. Houston Street, Room 565, San Antonio, Texas 78205–2040
Regional Director, Region 17, 8600 Farley Street, Suite 100, Overland Park, Kansas 66212–4677
Resident Officer, Tulsa Resident Office, 224 South Boulder Avenue, Room 318, Tulsa, Oklahoma 74103–3027
Regional Director, Region 18, Towle Building, Suite 790, 330 Second Avenue South, Minneapolis, Minnesota 55401–2221
Resident Officer, Des Moines Resident Office, 210 Walnut Street, Room 439, Des Moines, Iowa 50309–2116
Regional Director, Region 19, Henry M. Jackson Federal Building, 915 Second Avenue, Room 2948, Seattle, Washington 98174–1078
Resident Officer, Anchorage Resident Office, 222 West 7th Avenue, Box 21, Anchorage, Alaska 99513–3546
Officer in Charge, Subregion 36, 601 SW 2nd Avenue, Suite 1910, Portland, Oregon 97204–3170
Regional Director, Region 20, 901 Market Street, Suite 400, San Francisco, California 94103–1735
Officer in Charge, Subregion 37, Prince Kuhio Federal Building, 300 Ala Moana Boulevard, Room 7–245, Honolulu, Hawaii 96850–4980
Regional Director, Region 21, 888 South Figueroa Street, 9th Floor, Los Angeles, California 90017–5449
Resident Officer, San Diego Resident Office, Pacific Professional Center, 555 West Beech Street, Suite 302, San Diego, California 92101–2939
Regional Director, Region 22, 20 Washington Place, 5th Floor, Newark, New Jersey 07102–2570
Regional Director, Region 24, La Torre de Plaza, 525 F.D. Roosevelt Avenue, Suite 1002, San Juan, Puerto Rico 00918–1002
Regional Director, Region 25, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 238, Indianapolis, Indiana 46204–1577
Regional Director, Region 26, Mid-Memphis Tower Building, 1407 Union Avenue, Suite 800, Memphis, Tennessee 38104–3627
Resident Officer, Little Rock Resident Office, TCBY Tower, 425 West Capitol Avenue, Suite 375, Little Rock, Arkansas 72201–3489
Resident Officer, Nashville Resident Office, 810 Broadway, 3rd Floor, Nashville, Tennessee 37203–3816
Regional Director, Region 27, Dominion Plaza, North Tower, 600 17th Street, 7th Floor, Denver, Colorado 80202–5433
Regional Director, Region 28, Security Building, 234 North Central Avenue, Suite 440, Phoenix, Arizona 85004–2212
Resident Officer, Albuquerque Resident Office, Western Bank Plaza, 505 Marquette Avenue, NW, Room 1820, Albuquerque, New Mexico 87102–2181
Resident Officer, Las Vegas Resident Office, Alan Bible Federal Building, 600 Las Vegas Boulevard South, Suite 400, Las Vegas, Nevada 89101–6637
Resident Officer, El Paso Resident Office, PO Box 23159, El Paso, Texas 79923–3159
Regional Director, Region 29, One Metro Tech Center, Jay Street and Myrtle Avenue, 10th Floor, Brooklyn, New York 11201–4201
Regional Director, Region 30, Henry S. Reuss Federal Plaza, 310 West Wisconsin Avenue, Suite 700, Milwaukee, Wisconsin 53203–2211
Regional Director, Region 31, 11150 W. Olympic Boulevard, Suite 700, Los Angeles, California 90064–1824
Regional Director, Region 32, Breuner Building, 2nd Floor, 1301 Clay Street, Room 300N, Oakland, California 94612–5211
Regional Director, Region 33, Hamilton Square Building, 300 Hamilton Boulevard, Suite 200, Peoria, Illinois 61602–1246
Regional Director, Region 34, One Commercial Plaza, 280 Trumbull Street, 21st Floor, Hartford, Connecticut 06103–3503

[FR Doc. 00–25864 Filed 10–6–00; 8:45 am]

BILLING CODE 7545–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Anthropological and Geographic Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following six meetings of the Advisory Panel for Anthropological and Geographic Sciences (#1757):

Date & Time: October 30–31, 2000; 8:30 a.m.–6 p.m.

Place: 4201 Wilson Boulevard, Room 330, Arlington, VA.

Contact Person: Dr. John Yellen, Program Director for Archaeology and Archaeometry Program, National Science Foundation, 4201 Wilson Boulevard, Suite 995, Arlington, VA 22230, Telephone: (703) 292–8759.

Agenda: To review and evaluate Archaeology proposals as part of the selection process for awards.

Date & Time: December 4–5, 2000; 8:30 a.m.–5 p.m.

Place: 4201 Wilson Boulevard, Room 310, Arlington, VA.

Contact Person: Dr. Mark Weiss, Program Director for Physical Anthropology, National Science Foundation, 4201 Wilson Boulevard, Suite 995, Arlington, VA 22230. Telephone: (703) 292–7321.

Agenda: To review and evaluate Physical Anthropology proposals as part of the selection process for awards.

Date & Time: November 2–3, 2000, 8:30 a.m.–5 p.m.

Place: 4201 Wilson Boulevard, Room 370, Arlington, VA.

Contact Person: Dr. Stuart Plattner, Program Director for Cultural Anthropology, National Science Foundation, 4201 Wilson Boulevard, Suite 995, Arlington, VA 22230. Telephone: (703) 292–7315.

Agenda: To review and evaluate Cultural Anthropology proposals as part of the selection process for awards.

Date & Time: October 26–27, 2000, 8:30 a.m.–5 p.m.

Place: 4201 Wilson Boulevard, Room 390, Arlington, VA.

Contact Person: Dr. Stuart Plattner, Program Director for Cultural Anthropology, National Science Foundation, 4201 Wilson Boulevard, Suite 995, Arlington, VA 22230. Telephone: (703) 292–7315.

Agenda: To review and evaluate Cultural Anthropology dissertation proposals as part of the selection process for awards.

Date & Time: December 7–8, 2000, 8:30 a.m.–5 p.m.

Place: 4201 Wilson Boulevard, Room 970, Arlington, VA.

Contact Person: Dr. Nina Lam, Program Director for Geography and Regional Science, National Science Foundation, 4201 Wilson Boulevard, Suite 995, Arlington, VA 22230. Telephone: (703) 292–7313.

Agenda: To review and evaluate Geography and Regional Science dissertation proposals as part of the selection process for awards.

Date & Time: November 30–December 1st, 2000, 8:30 a.m.–5 p.m.

Place: 4201 Wilson Boulevard, Room 970, Arlington, VA.

Contact Person: Dr. Nina Lam, Program Director for Geography and Regional Science, National Science Foundation, 4201 Wilson Boulevard, Suite 995, Arlington, VA 22230. Telephone: (703) 292–7313.

Agenda: To review and evaluate Geography and Regional Science proposals as part of the selection process for awards.

Type of Meetings: Closed.

Purpose of Meetings: To provide advice and recommendations concerning support for research proposals submitted to the NSF for financial support.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 3, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25832 Filed 10–6–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Biological Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science

Foundation announces the following meeting:

Name: Special Emphasis Panel in Biological Sciences (1754).

Date and Time: October 23, 2000, 8 a.m.–5 p.m.

Place: Room 320, NSF, 4201 Wilson Boulevard, Arlington, Virginia.

Type of Meeting: Closed.

Contact Person: Dr. Sylvia Spengler, Program Director, Biological Database & Informatics, Division of Biological Infrastructure, Room 615, NSF, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 292–8470.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the NSF for financial support.

Agenda: To review and evaluate Databases & Informatics proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government Sunshine Act.

Dated: October 3, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25824 Filed 10–6–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Chemical and Transport Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Chemical and Transport Systems (1190).

Date and Time: November 17–18, 2000; 8:30 a.m. to 5:00 p.m.

Place: Hyatt Regency @ Capitol Hill, Washington, DC.

Type of Meeting: Closed.

Contact Person: Dr. Chuan Chen, Program Director, Fluid Dynamics & Hydraulics, Division of Chemical & Transport Systems, Room 525, (703) 292–8371.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate nominations for the FY 2000 Career Panel of proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 3, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25830 Filed 10–10–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Chemistry; Notice of Meetings

This notice is being published in accord with the Federal Advisory Committee Act (Pub. L. 92–463, as amended). During the period November 13 through November 29, the Special Emphasis Panel in the Division of Chemistry (1191) will be holding panel meetings to review and evaluate research proposals. The dates and types of proposals being reviewed are:

Dates of meetings		Types of proposal
11/13/00	11/14/00	Physical Chemistry (Career).
11/13/00	11/14–15/00	Inorganic Chemistry (Career).
11/16/00	11/17/00	Analytical and Surface Chemistry (Career).
11/27/00	11/28–29/00	Organic and Macromolecular Chemistry (Career).

Times: 8:30 to 5:00 p.m. each day.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meetings: Closed.

Contact Person: Dr. Janice Hicks, Program Officer, Experimental Physical Chemistry, Room 1055, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, telephone (703) 292–4956.

Purpose of Meetings: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the Division of Chemistry as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: October 3, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25822 Filed 10–6–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel In Chemistry; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Chemistry (#1191).

Date and Time: November 27, 28 & 29, 2000; 8:30 a.m.–5 p.m.

Place: Rooms, 1020 and 1060—NSF, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Joan Frye, Program Director, Chemical Instrumentation Program, Chemistry Division, Room 1055, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 292–4953.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals for the Chemical Instrumentation Program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 3, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25829 Filed 10–6–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Cognitive, Psychological and Language Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting of the Advisory Panel for Cognitive, Psychological and Language Sciences (#1758);

Date and Time: October 11–13, 2000; 8:00 a.m.–6:30 p.m.

Place: 4201 Wilson Boulevard, Room 390, Arlington, VA.

Contact Person: Dr. Catherine Ball, Program Director for Linguistics, National Science Foundation, 4201 Wilson Boulevard, Suite 995, Arlington, VA 22230. Telephone: (703) 292–8731.

Type of Meeting: Closed.

Purpose of Meeting: To provide advice and recommendations concerning support for research proposals submitted to the NSF for financial support.

Agenda: To review and evaluate linguistics proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 3, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25821 Filed 10–6–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Computing-Communications Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Computing-Communications Research (1192).

Date: October 31 and November 2, 2000.

Time: 8:00 a.m.–5:00 p.m.

Place: 4201 Wilson Boulevard, Room 1105, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Frank Anger, Program Director, Software Engineering and Languages (SEL), CISE/CCR, Room 1145, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230 (703) 292–8911.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluates SEL CAREER proposals as a part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 3, 2000.

Karen J. York

Committee Management Officer.

[FR Doc. 00–25818 Filed 10–6–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Earth Sciences Proposal Review Panel; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Earth Sciences Proposal Review Panel (1569).

Date and Time: November 1–3, 2000, 8 a.m. to 6 p.m.

Place: IRIS Data Management Center, 1408 NE 45th Street, Suite 201, Seattle, WA.

Type of Meeting: Closed.

Contact Person: Dr. Daniel F. Weill, Program Director, Instrumentation & Facilities Program, Division of Earth Sciences, Room 785, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230; Telephone: (703) 292–4746.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Instrumentation & Facilities proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 3, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25827 Filed 10–6–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel Meeting for Ecological Studies: Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name and Committee Code: Advisory Panel for Ecological Studies (#1751).

Date and Time: October 12, 2000, 8:00 a.m.–5:00 p.m. thru October 13, 2000, 8:00 a.m.–Adjourn.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 373, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Penelope Firth, Program Officer or Dr. Carol Johnston, Program Officer, Ecological Studies, Room 640N, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230. Telephone: (703) 292–8481.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice and recommendations concerning proposals to the National Science Foundation (NSF) for financial support.

Agenda: To review and evaluate proposals submitted in response to the Ecological Studies Ecosystem Studies Program Solicitation (99–2).

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4), and (6) of the Government in the Sunshine Act.

Dated: October 3, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25823 Filed 10–6–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel Meeting for Ecological Studies; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name and Committee Code: Advisory Panel for Ecological Studies (#1751).

Date and Time: October 11, 2000, 8 a.m.–5 p.m. thru October 13, 2000, 8 a.m.–Adjourn.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 375, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Scott L. Collins, Program Officer or Mr. Aaron Kinchen, Program & Technology Analyst, Ecological Studies Cluster, Room 640N, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230. Telephone: (703) 292–8481.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice and recommendations concerning proposals to the National Science Foundation (NSF) for financial support.

Agenda: To review and evaluate proposals submitted in response to the Ecological Studies Ecology Program Solicitation (99–2).

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 3, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25826 Filed 10–6–00; 8:45 am]

BILLING CODE 7555–01–M

National Science Foundation

Advisory Committee for Education and Human Resources; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L.92–463, as amended), the National Science Foundation announces the following meeting:

Name: Committee on the NSF Niche in K–16 Education, a subcommittee of the Advisory Committee for Education and Human Resources (#1119).

Date and Time: October 17, 2000; 1:30 p.m.–5:30 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 1235 Arlington, VA 22230.

Type of Meeting: Open.

Contact Person: Dr. Daryl Chubin, NSB Senior Policy Officer, National Science Foundation, 4201 Wilson Boulevard, Room 1220, Arlington, VA 22230, Telephone: (703)292–7000.

Purpose of Meeting: To provide advice and recommendations to the Advisory Committee for Education and Human Resources.

Agenda: To discuss NSF's niche in K–16 Education.

Reason for Late Notice: Coordinating members of committee to accommodate meeting schedules. This meeting needs to be held before the Advisory Committee for Education and Human Resources meeting on November 8–9.

Dated: October 3, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25819 Filed 10–6–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Electrical and Communications Systems; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L 92–463, as amended), the National Science Foundation announces the following meetings of the Special Emphasis Panel in Electrical and Communications Systems (1196):

Date/Time: November 6–7, 2000, 8:30 a.m.–5 p.m.

Place: 4201 Wilson Boulevard, Suite 680, Arlington, VA.

Contact: Dr. James Mink, Program Director, Electronics, Photonics, and Device Technologies (EPDT), Division of Electrical and Communications Systems, National Science Foundation, 4201 Wilson Blvd., Room 675, Arlington, VA 22230. Telephone: (703) 292–8339.

Agenda: To review and evaluate Electronics, Photonics, and Device Technologies proposals as part of the selection process for awards.

Date: November 20–21, 2000, 8:30 a.m.–5 p.m., Room 365.

Place: 4201 Wilson Boulevard, Suite 365, Arlington, VA.

Contact: Dr. Paul Werbos, Program Director, Control, Networks, and Computational Intelligence (CNCI), Division of Electrical and Communications Systems, National Science Foundation, 4201 Wilson Blvd., Room 675, Arlington, VA 22230. Telephone: (703) 292–8339.

Agenda: To review and evaluate Control, Networks, and Computational Intelligence proposals as part of the selection process for awards.

Type of Meetings: Closed.

Purpose of Meetings: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 3, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25825 Filed 10–6–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel for Geosciences: Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel for Geosciences (1756).

Date & Time: November 12–17, 2000, 8 am–5 pm.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Mr. Lawrence Clark, Acting Section Head, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 292–8582.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate the Ocean Science Research Programs (OSRS) as part of the selection process for awards.

Reason for Closing: The proposal being reviewed includes information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in The Sunshine Act.

Dated: October 3, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25831 Filed 10–6–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel on Research, Evaluation and Communication; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel on Research, Evaluation and Communication (1210).

Date and Time: October 23, 2000 (8 a.m.–6 p.m.); October 24, 2000 (8 a.m.–3 p.m.).

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Elizabeth VanderPutten, Program Director; Faculty Early Career Development Program of the Division of Research, Evaluation and Communication (REC), Room 855, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: 703/292–8650.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate formal proposals submitted to the CAREER Program as a part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a propriety or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 3, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25828 Filed 10–6–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Social, Behavioral, and Economic Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Social, Behavioral, and Economic Sciences (1171).

Date and Time: November 8, 2000; 1:00 p.m.—5:00 p.m.; November 9, 2000; 8:30 a.m.—5:00 p.m.

Place: NSF, Room 1235, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Open.

Contact Person: Dr. Kenneth M. Brown, Executive Secretary; Directorate for Social, Behavioral, and Economic Sciences, NSF, Suite 905; 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 292–8741.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice and recommendations to the National Science Foundation on major goals and policies pertaining to SBE programs and activities.

Agenda: Discussions on issues, role and future direction of the NSF Directorate for Social, Behavioral and Economic Sciences.

Dated: October 3, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25820 Filed 10–6–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meeting

Agency Holding Meeting: National Science Foundation, National Science Board.

Date and Time: October 19, 2000: 11:45 a.m.–12:00 Noon, Closed Session; October 19, 2000: 1:00 p.m.–3:30 p.m., Closed Session; October 19, 2000: 3:30 p.m.–6:00 p.m., Open Session.

Place: The National Science Foundation, Room 1235, 4201 Wilson Boulevard, Arlington, VA 22230.

Status: Part of this meeting will be closed to the public; Part of this meeting will be open to the public.

Matters to be Considered

Thursday, October 19

Closed Session (11:45 a.m.–12:00 Noon)

—Closed Session Minutes, August 2000
—Personnel

Closed Session (1:00 p.m.–3:30 p.m.)

—Awards and Agreements
—FY 2002 Budget

Open Session (3:30 p.m.–6:00 p.m.)

—Swearing-in, NSB Nominees
—Open Session Minutes, August 2000
—Closed Session Items for December 2000
—Chairman's Report
—Director's Report
—NSF Planning Issues
Mathematics Initiative
Workforce Initiative
NSF Stipends
—NSB 50th Anniversary Commemorative Booklet
—Committee Reports

Marta Cehelsky,

Executive Officer.

[FR Doc. 00–25990 Filed 10–4–00; 4:25 pm]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50–528, STN 50–529, and STN 50–530]

Public Service Company of New Mexico (Palo Verde Nuclear Generating Station Units 1, 2, and 3); Order Approving Application Regarding Proposed Corporate Restructuring and Approving Conforming Amendments

I

Public Service Company of New Mexico (PNM) holds minority ownership interests (both owned and leased) in Palo Verde Nuclear Generating Station (Palo Verde) Units 1, 2, and 3, and in connection therewith is a holder of Facility Operating Licenses Nos. NPF–41, NPF–51, and NPF–74 for Palo Verde. The facility is located in Maricopa County, Arizona. Other co-licensees for Palo Verde are Arizona Public Service Company (APS) (owner or lessee of a 29.1 percent share of each of the three units), Salt River Project Agricultural Improvement and Power District (owner of a 17.49 percent share), El Paso Electric Company (owner of a 15.8 percent share), Southern California Edison Company (owner of a 15.8 percent share), Southern California Public Power Authority (owner of a 5.91 percent share), and Los Angeles Department of Water and Power (owner of a 5.70 percent share). APS is the licensed operator of the Palo Verde units. The remaining licensees hold possession-only licenses.

II

Pursuant to Section 184 of the Atomic Energy Act of 1954, as amended, and 10 CFR 50.80, PNM filed an application dated March 3, 2000, requesting approval of the indirect transfer of the Palo Verde licenses, to the extent held by PNM, to a new holding company, Manzano Corporation (Manzano). Supplemental information on this application was forwarded to the NRC by PNM's outside counsel, Shaw Pittman, in letters dated August 14, August 17, and September 7, 2000. Manzano, presently a subsidiary of PNM, was formed to implement the public utility restructuring requirements of the New Mexico Electric Utility Industry Restructuring Act of 1999. The proposed restructuring encompasses the formation of Manzano and Manzano becoming the holding company for PNM, the transfer by PNM of its electric and gas transmission and distribution businesses to an affiliated company to be named ''Public Service Company of New Mexico'' (with PNM and such affiliated company being under common control by Manzano), and a change in PNM's name to Manzano Energy Corporation (Manzano Energy). By application dated April 26, 2000, APS requested approval, pursuant to 10 CFR 50.90, of proposed conforming amendments to reflect in the Palo Verde licenses the name change of PNM to Manzano Energy Corporation that will occur in connection with the restructuring. APS will retain its existing ownership interest in, and remain the licensed operator of Palo Verde after the restructuring of PNM, and is not otherwise involved in the restructuring. Similarly, none of the other co-licensees are involved in the restructuring of PNM. No physical changes to the facility or operational changes are being proposed in the applications filed by PNM and APS. Notice of the applications and an opportunity for hearing was published in the **Federal Register** on May 26, 2000 (65 FR 34370). No written comments or hearing requests were filed.

Under 10 CFR 50.80, no license shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. Upon review of the information submitted by PNM in its application, the supplements thereto, and other information before the Commission, the NRC staff has determined that the proposed restructuring will not affect the qualifications of PNM to hold the licenses referenced above to the same extent now held by PNM, and that the indirect transfer of the licenses, to the extent effected by the restructuring, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth herein. The NRC staff has further found that the application for the proposed license amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the application, the provisions of the Act and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendments

can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendments will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendments will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied. These findings are supported by a Safety Evaluation dated September 29, 2000.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 USC 2201(b), 2201(i), 2201(o) and 2234; and 10 CFR 50.80, *it is hereby ordered* That the application regarding the proposed restructuring of PNM and indirect license transfers is approved, subject to the following conditions:

1. Manzano Energy shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from Manzano Energy to its proposed parent, or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of Manzano Energy's consolidated net utility plant, as recorded on Manzano Energy's books of account.

2. Manzano Energy shall continue to provide decommissioning funding assurance, to be held in its decommissioning trusts for Palo Verde Units 1, 2, and 3, from the date of the indirect license transfers, as represented in the respective March 3, 2000, application, as supplemented. In addition, Manzano Energy shall ensure that contractual arrangements with its transmission and distribution affiliate to obtain necessary decommissioning funds for Palo Verde through non-bypassable charges will be established and maintained until the decommissioning trusts are fully funded.

3. Manzano Energy shall enter into an agreement with its transmission and distribution affiliate that shall require the deposit of funds collected for decommissioning funding from wires charges into Manzano Energy's decommissioning trust accounts. A copy of the agreement shall be forwarded to the NRC prior to the completion of the proposed restructuring of PNM.

4. Manzano Energy shall take all necessary steps to ensure that its decommissioning trusts are maintained in accordance with the March 3, 2000, application, as supplemented, and the requirements of this Order approving the respective indirect transfers, and consistent with the safety evaluation supporting this Order.

5. Manzano Energy shall inform the Director of the Office of Nuclear Reactor Regulation within 30 days of approval by the New Mexico Public Regulation Commission of the stranded cost mechanism of recovering decommissioning costs. Within such 30-day period, Manzano Energy shall state the total decommissioning costs subject to stranded cost recovery and the schedule for funding decommissioning costs.

6. Manzano Energy's decommissioning trust agreements for each of the three units shall provide that:

a. The use of assets in both the qualified and non-qualified funds shall be limited to expenses related to decommissioning of the unit as defined by the NRC in its regulations and issuances, and as provided in the unit's license and any amendments thereto. However, upon completion of decommissioning, as defined above, the assets may be used for any purpose authorized by law.

b. Investments in the securities or other obligations of Manzano Energy or affiliates thereof, or their successors or assigns, shall be prohibited. In addition, except for investments tied to market indexes or other non-nuclear sector mutual funds, investments in any entity owning one or more nuclear power plants shall be prohibited.

c. No disbursements or payments from the trust, other than for ordinary administrative expenses, shall be made by the trustee unless the trustee has first given the NRC 30 days prior written notice of the payment. In addition, no such disbursements or payments from the trust shall be made if the trustee receives prior written notice of objection from the Director of the Office of Nuclear Reactor Regulation.

d. The trust agreement shall not be modified in any material respect without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.

e. The trustee, investment advisor, or anyone else directing the investments made in the trust shall adhere to a ''prudent investor'' standard, as specified in 18 CFR 35.32(3) of the Federal Energy Regulatory Commission's regulations.

It is further ordered That, consistent with 10 CFR 2.1315(b), license amendments as indicated in Enclosure 2 to the cover letter forwarding this Order to reflect the subject restructuring action and conditions of this Order are approved. The amendments shall be issued and made effective at the time the proposed restructuring action is completed.

This Order is effective upon issuance.

For further details with respect to this action, see the initial application dated March 3, 2000, supplemental application and submittals dated April 26, August 14, August 17, and September 7, 2000, and the Safety Evaluation dated September 29, 2000, which are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov).

Dated at Rockville, Maryland, this 29th day of September 2000.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 00–25916 Filed 10–6–00; 8:45 am]

BILLING CODE 7590–01–U

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–364]

Southern Nuclear Operating Company; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–8, issued to Southern Nuclear Operating Company (the licensee), for operation of the Joseph M. Farley Nuclear Plant, Unit 2, located in Houston County, Alabama.

The proposed amendment would eliminate the requirement to cycle the Unit 2 pressurizer power-operated relief valve (PORV) block valves during the remainder of operating cycle 14 and provides additional compensatory action. Cycle 14 is presently scheduled to end on February 24, 2001. This change is needed because excessive packing leakage from at least one of the Unit 2 PORV block valves occurs during valve surveillance testing (stroking).

Cycling the valves with this packing leakage could result in additional valve packing degradation potentially resulting in a forced unit shutdown. Repairing the valve packing would require shutting down and cooling down the unit to establish conditions for the repair. Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change to Surveillance Requirement (SR) 3.4.11.1 suspends the requirement to cycle test the Unit Two pressurizer power operated relief valve (PORV) block valves for the remainder of operating cycle 14. This change will eliminate two scheduled cycle tests for the PORV block valves during the remainder of operating cycle 14. SR 3.4.11.4 is added to provide compensatory measures for verifying power available to the block valves at least every 24 hours. At the end of cycle 14, the proposed changes will no longer be in effect. Suspension of the cycle tests for the PORV block valves may result in a small decrease in assurance that the block valves would cycle if required to isolate a stuck open PORV. However, experience with these valves has shown them to be very reliable and suspension of the remaining tests will not appreciably reduce reliability of the valves. The proposed compensatory measure of verifying block valve power available on a 24 hour basis adds additional assurance that the block valves will close if demanded.

* * * * *

The proposed changes do not affect the consequences of a previously analyzed accident since the magnitude and duration of analyzed events are not impacted by this change. The dose consequences of the proposed change are bounded by LOCA analyses. Therefore, the consequences of a previously evaluated accident are unchanged.

Therefore, the proposed TS changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes involve no change to the physical plant. They allow for suspension of the PORV block valve cycle tests for a limited time and provide for compensatory action to verify power to the PORV block valves. These valves provide an isolation function for a postulated stuck open or leaking pressurizer PORV. This condition is an analyzed event since it is bounded by the FNP LOCA analyses. In addition to the isolation function, the block valves are required to remain open to allow the PORVs to function automatically to control reactor coolant system (RCS) pressure. These changes do not impact the open function of the block valves since the normal position is open.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed changes do not involve a significant reduction in a margin of safety.

The physical plant is unaffected by these changes. The proposed changes do not impact accident offsite dose, containment pressure or temperature, emergency core cooling system (ECCS) or reactor protection system (RPS) settings or any other parameter that could affect a margin of safety. The elimination of cycle testing of the PORV block valves for the remainder of the Unit Two operating cycle and the addition of the proposed compensatory action that enhances assurance of valve operation are somewhat offsetting.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 14-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By November 9, 2000, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to M. Stanford Blanton, Balch and Bingham, Post Office Box 306, 1710 Sixth Avenue North, Birmingham, Alabama, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated September 8, 2000, as supplemented by letter dated October 2, 2000, which are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov).

Dated at Rockville, Maryland, this 4th day of October, 2000.

L. Mark Padovan,

Project Manager, Project Directorate II–1, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–25917 Filed 10–6–00; 8:45 am]

BILLING CODE 7590–01–U

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–391]

Tennessee Valley Authority; Watts Bar Nuclear Plant, Unit 2, Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an extension of the latest construction completion dates specified in Construction Permit No. CPPR–92 issued to Tennessee Valley Authority (permittee, TVA) for the Watts Bar Nuclear Plant (WBN), Unit 2. The facility is located at the permittee's site on the west branch of the Tennessee River approximately 50 miles northeast of Chattanooga, Tennessee.

Environmental Assessment

Identification of Proposed Action

The proposed action would extend the latest construction completion date of Construction Permit No. CPPR–92 to December 31, 2010. The proposed action is in response to the permittee's request dated October 13, 1999, as supplemented by letter dated July 14, 2000.

The Need for the Proposed Action

The proposed action is needed to grant the licensee the option of completing construction on WBN Unit 2 in the future. The construction permit expired in December 1999. The permittee requested the extension for Unit 2 due to the delay in the completion of Unit 1 and TVA's decision to maintain Unit 2 in a construction layup status pending TVA's determination of further options to meet future electric power demands.

Environmental Impacts of the Proposed Action

The environmental impacts associated with the construction of the facility have been previously discussed and evaluated in TVA's Final Environmental Statement for construction (FES–CP) of WBN, Units 1 and 2, issued on November 9, 1972. NRC staff evaluated the environmental impacts of construction and operation of this plant, issuing comments on TVA's FES–CP as

part of its review. In December 1978, NRC staff issued a Final Environmental Statement for the operating-license stage (FES–OL), which addressed the environmental impacts of construction activities not addressed previously in TVA's FES–CP. The activities included: (1) Construction of the transmission route for the Watts Bar—Volunteer 500 kV line; (2) construction of the settling pond for siltation control for construction runoff at a different location from that originally proposed in the FES–CP; and (3) the relocation of the blowdown diffuser from the originally proposed site indicated in the FES–CP. The staff addressed the terrestrial and aquatic environmental impacts in the FES–OL, as well as historic and archeological impacts, and concluded that the assessment presented in the FES–CP remains valid.

A supplemental Final Environmental Statement related to the operation of WBN Units 1 and 2 was issued in April 1995. Environmental issues evaluated included changes to regional demography, natural resource use, meteorology, ecology, impacts to humans and the environment, and socioeconomic impacts, including environmental justice issues. The staff concluded that there were no significant changes to the environmental impacts discussed in the 1978 FES–OL due to changes in plant design or operation, or changes in the environment. Furthermore, the staff concluded that no additional impacts not previously discussed in the NRC's 1978 FES–OL related to construction of Unit 2 were expected.

Since the NRC's latest review, all candidate species have been removed and the bald eagle delisted from the Federal threatened and endangered species list issued by the Fish and Wildlife Service. The licensee has no plans to construct additional transmission lines or disturb any land that has not been discussed in previous environmental reviews. Socioeconomic impacts were evaluated in the supplement to the FES–OL issued in 1995. No additional impacts are expected.

The construction of Unit 2 is approximately 65 percent complete; therefore, most of the construction impacts discussed in the FES have already occurred. This action would only extend the period of construction as described in the FES. It does not involve any different impacts as described and analyzed in the original and updated environmental impact statements. The proposed extension will not allow any work to be performed that is not already allowed by the existing construction permit. The extension will merely grant the permittee more time to complete construction and modification in accordance with the previously approved construction permit.

Based on the foregoing, the NRC staff has concluded that the proposed action would have no significant environmental impact. Since this action would only extend the period of construction activities described in the FES, it does not involve any different impacts or a significant change to those impacts described and analyzed in the original environmental impact statement. Consequently, an environmental impact statement addressing the proposed action is not required.

Alternatives to the Proposed Action

A possible alternative to the proposed action would be to deny the request, or the no-action alternative. This would result in expiration of the construction permit for Watts Bar, Unit 2. This option would require submittal of another application for construction in order to allow the permittee to complete construction of the facility with no significant environmental benefit. The environmental impacts of the proposed action and alternative action are similar.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in the FES for Watts Bar.

Agencies and Persons Contacted

In accordance with its stated policy, on October 2, 2000, the staff consulted with the Tennessee State Official, Ms. Joel Key, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that this action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for this action.

For further details with respect to this action, see the licensee's request for extension dated October 13, 1999, as supplemented July 14, 2000. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room).

Dated at Rockville, Maryland this 3rd day of October 2000.

For the Nuclear Regulatory Commission.

Richard P. Correia,

Chief, Section 2, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation

[FR Doc. 00–25915 Filed 10–6–00; 8:45 am]

BILLING CODE 7590–01–U

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions established or revoked under Schedule C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Pam Shivery, Acting Director, Washington Service Center, Employment Service (202) 606–1015.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established under the Excepted Service provisions of 5 CFR 213 on September 20, 2000 (64 FR 56966). Individual authorities established under Schedule C between August 1, and August 31, 2000, appear in the listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30 will also be published.

Schedule C

The following Schedule C authorities were established during August 2000.

Department of Agriculture

Confidential Assistant to the Administrator, Farm Services Agency. Effective August 4, 2000.

Staff Assistant to the Administrator, Farm Service Agency. Effective August 4, 2000.

Confidential Assistant to the Administrator, Rural Housing Service. Effective August 11, 2000.

Confidential Assistant to the Under Secretary for Food Safety. Effective August 11, 2000.

Confidential Assistant to the Administrator, Foreign Agricultural Service. Effective August 14, 2000.

Confidential Assistant to the Administrator, Rural Utilities Service,

Office of the Administrator. Effective August 28, 2000.

Staff Assistant to the Administrator. Effective August 31, 2000.

Department of Commerce

Director of Communications to the Under Secretary for Technology. Effective August 10, 2000.

Executive Assistant to the Secretary of Commerce. Effective August 10, 2000.

Department of Defense

Special Assistant to the Deputy Secretary of Defense. Effective August 15, 2000.

Assistant for Plans and Policy (International and Security Affairs) to the Secretary of Defense. Effective August 21, 2000.

Staff Assistant to the Secretary of Defense (International Security Affairs). Effective August 21, 2000.

Department of Education

Confidential Assistant to the Director, White House Liaison. Effective August 2, 2000.

Special Assistant to the Deputy Assistant Secretary, Policy Planning and Innovation. Effective August 16, 2000.

Director, Scheduling and Briefing Staff to the Chief of Staff. Effective August 29, 2000.

Department of Energy

Director of Communications to the Assistant Secretary for Energy Efficiency. Effective August 10, 2000.

Daily Scheduler to the Director, Office of Scheduling and Advance. Effective August 10, 2000.

Deputy Director, Office of the Consumer Information to the Director, Office of Consumer Information. Effective August 15, 2000.

Special Assistant to the Director of Policy. Effective August 21, 2000.

Department of Health and Human Services

Director of Scheduling to the Chief of Staff, Office of the Secretary. Effective August 16, 2000.

Deputy Director of Scheduling to the Director of Scheduling. Effective August 18, 2000.

Confidential Assistant (Scheduling) to the Director of Scheduling. Effective August 21, 2000.

Congressional Liaison Specialist to the Deputy Assistant Secretary for Legislation (Congressional Liaison). Effective August 23, 2000.

Department of Housing and Urban Development

Special Assistant to the Special Assistant/Director, Interfaith Community Outreach. Effective August 18, 2000.

Department of the Interior

Administrative Aide (Office Automation) to the Director Scheduling Office. Effective August 4, 2000.

Department of Labor

Special Assistant to the Director of Womens's Bureau. Effective August 10, 2000.

Department of State

Special Assistant to the Director, White House Liaison. Effective August 11, 2000.

Department of Transportation

Special Assistant to the Assistant to the Secretary and Director of Public Affairs. Effective August 4, 2000.

Department of the Treasury

Advisor to the Secretary and Director of Strategic Planning, Scheduling and Advance to the Chief of Staff. Effective August 2, 2000.

Deputy Director for Strategic Planning, Scheduling and Advance to the Advisor to the Secretary and Director, Strategic Planning, Scheduling and Advance. Effective August 2, 2000.

Special Assistant to the Director of Strategic Planning, Scheduling and Advance. Effective August 30, 2000.

Federal Communications Commission

Special Assistant for Policy and Communications to the Director, Office of Media Relations. Effective August 10, 2000.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.

Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 00–25909 Filed 10–6–00; 8:45 am]

BILLING CODE 6325–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24672; 812–12046]

Equity Managers Trust, et al.; Notice of Application

October 2, 2000.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 12(d)(1)(A) and (B) of the Act, under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act, and under section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint transactions.

Summary of Application: Applicants request an order to permit certain registered open-end management investment companies to invest uninvested cash and cash collateral in affiliated money market funds.

Applicants: Equity Managers Trust, Global Managers Trust, Income Managers Trust (collectively, the ''Managers Trusts''), Neuberger Berman Equity Funds, Neuberger Berman Equity Trust, Neuberger Berman Equity Assets, Neuberger Berman Equity Series, Neuberger Berman Income Funds, Neuberger Berman Income Trust (collectively, with the Managers Trusts, the ''Trusts''), Neuberger Berman Management Inc. (''NBMI'') and Neuberger Berman, LLC (''Neuberger Berman'' together with NBMI, the ''Adviser'').

Filing Dates: The application was filed March 28, 2000 and amended on July 31, 2000 and September 5, 2000. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 27, 2000, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609; Applicants, NBMI and the Trusts, 605 Third Avenue, 2nd Floor, New York, NY 10158–0180, Neuberger Berman, 605 Third Avenue, 21st Floor, New York, NY 10158–3698.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Senior Counsel, at (202) 942–0574 or Janet M. Grossnickle, Branch Chief, at (202) 942–0564, (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (telephone (202) 942–8090).

Applicants' Representations

1. Each of Neuberger Berman Equity Funds, Neuberger Berman Equity Trust, Neuberger Berman Equity Assets, Neuberger Berman Equity Series, Neuberger Berman Income Funds, and Neuberger Berman Income Trust is a Delaware business trust registered under the Act as an open-end management investment company. Neuberger Berman Equity Funds currently has eleven series, Neuberger Berman Equity Trust has eleven series, Neuberger Berman Equity Assets has seven series, Neuberger Berman Equity Series has one series, Neuberger Berman Income Funds has seven series, and Neuberger Berman Income Trust has two series which are seeking the requested relief (collectively, the ''Funds''). Each of the Managers Trusts is a New York common law trust, registered under the Act as an open-end management investment company. Equity Managers Trust currently has ten series, Global Managers Trust has one series, and Income Managers Trust has seven series which are seeking the requested relief (collectively, the ''Portfolios''). NBMI is the investment manager of each Portfolio and administrator to each Fund. Neuberger Berman serves as the subadviser to each Portfolio. Both NBMI and Neuberger Berman are registered as investment advisers under the Investment Advisers Act of 1940.

2. Each Fund is a ''feeder fund'' that seeks to achieve its investment objective by investing all of its net investable assets, in reliance on section 12(d)(1)(E) of the Act, in its corresponding Portfolio, which is a ''master fund''.[1] Applicants also request relief for all other registered open-end investment companies or any series thereof that are advised by the Adviser or by any entity controlling, controlled by, or under common control (within the meaning of section 2(a)(9) of the Act) with the Adviser.[2]

3. Each Investing Portfolio (as defined below) has, or may be expected to have, cash that has not been invested in portfolio securities (''Uninvested Cash''). Uninvested Cash may result from a variety of sources, including dividends or interest received on portfolio securities, unsettled securities transactions, reserves held for investment strategy purposes, scheduled maturity of investments, liquidation of investment securities to meet anticipated redemptions or dividend payments, and new monies received from investors. Currently, the Investing Portfolios can invest Uninvested Cash directly in money market instruments. Certain of the Investing Portfolios also may participate in a securities lending program under which an Investing Portfolio may lend its portfolio securities to registered broker-dealers or other institutional investors. The loans are continuously secured by collateral equal at all times to at least the market value of the securities loaned. Collateral for these loans may include cash (''Cash Collateral,'' and together with Uninvested Cash, ''Cash Balances'').

4. Applicants request relief to the extent necessary to permit (a) the Portfolios to utilize Uninvested Cash to purchase shares of one or more existing or future registered open-end management investment companies advised by the Adviser that are money market funds (''Money Market Funds'') (a Portfolio that purchases shares of the Money Market Funds is referred to as an ''Investing Portfolio''); (b) each of the Investing Portfolios to utilize Cash Collateral received from borrowers of its portfolio securities in connection with the Investing Portfolio's securities lending activities to purchase shares of one or more of the Money Market Funds; (c) the Money Market Funds to sell their shares to, and to purchase such shares from, the Investing Portfolios; and (d) the Adviser to effect such purchases and sales. The Money Market Funds seek current income, liquidity and capital preservation by investing exclusively in short-term money market instruments that are valued at their amortized cost pursuant to the requirements of rule 2a–7 under the Act. Applicants submit that investing Cash Balances in shares of the Money Market Funds is in the best interest of the Funds, their shareholders, and each Fund's corresponding Investing Portfolios, because the Investing Portfolios expect to benefit from economies of scale that maximize investment opportunities, minimize credit and interest rate risk, facilitate management of liquidity, and minimize administrative costs.

Applicants' Legal Analysis

1. Section 12(d)(1)(A) of the Act provides that no registered investment company may acquire securities of another investment company if such securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of other acquired investment companies, represented more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) of the Act provides that no registered open-end investment company sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security or transaction (or classes thereof) from any provision of section 12(d)(1) if, and to the extent that, the exemption is consistent with the public interest and the protection of investors. Applicants request an exemption from the provisions of sections 12(d)(1)(A) and (B) to the extent necessary to permit each Investing Portfolio to invest Cash Balances in the Money Market Funds.

3. Applicants state that the proposed arrangement would not result in the abuses that sections 12(d)(1)(A) and (B) were intended to prevent. Applicants state that because each Money Market Fund will maintain a highly liquid portfolio, an Investing Portfolio will not be in a position to gain undue influence over a Money Market Fund. Applicants represent that the proposed arrangement will not result in an inappropriate layering of fees because shares of the Money Market Funds sold to the Investing Portfolios will not be subject to a sales load, redemption fee, distribution fee under a plan adopted in accordance with rule 12b–1 or service fee (as defined in rule 2830(b)(9) of the National Association of Securities Dealers, Inc. (''NASD'') Conduct Rules) or, if such shares are subject to any such fees in the future, the Adviser will waive its advisory fee for each Investing Portfolio in an amount that offsets the

[1] Applicants also wish to have the flexibility to allow the Funds to engage directly in the transactions described in the application if, in the future, the Funds were to terminate their master-feeder structure and instead invest directly in investment securities as single-tier funds. To have this flexibility, applicants request relief to engage in the transactions described in the application on behalf of each Fund as well as each Portfolio. Applicants further acknowledge that if the Funds terminate their master-feeder structure, the Funds will rely on the requested relief only in accordance with all of the terms and conditions of the application.

[2] All existing investment companies that currently intend to rely on the requested relief have been named as applicants, and any entities that rely on the requested order in the future will do so only in accordance with the terms and conditions of the application.

amount of such fees incurred by the Investing Portfolio. Applicants state that if a Money Market Fund offers more than one class of shares, an Investing Portfolio will invest its Cash Balances only in the class with the lowest expense ratio (taking into account the expected impact of the Investing Portfolio's investment) at the time of the investment. In connection with approving any advisory contract, the boards of trustees of the Investing Portfolios (each a ''Board'' and together the ''Boards''), including a majority of the trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act (''Independent Trustees'') will consider to what extent, if any, the advisory fees charged to each Investing Portfolio by the Adviser should be reduced to account for reduced services provided to the Investing Portfolio by the Adviser as a result of Uninvested Cash being invested in the Money Market Funds. Applicants represent that no Money Market Fund will acquire securities of any other investment company in excess of the limitations contained in section 12(d)(1)(A) of the Act, except to the extent permitted by section 12(d)(1)(E) of the Act.

4. Section 17(a) of the Act makes it unlawful for any affiliated person of a registered investment company, acting as principal, to sell or purchase any security to or from the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of an investment company to include the investment adviser, any person that owns 5% or more of the outstanding voting securities of that company, and any person directly or indirectly controlling, controlled by, or under common control with the investment company. Applicants state that as the investment adviser of the Funds and Portfolios, the Adviser is an affiliated person of each of these entities under section 2(a)(3) of the Act. Applicants state that the Portfolios share a common investment adviser and some Funds and Portfolios share common boards of trustees, the Funds and Portfolios may be considered affiliated persons of each other under section 2(a)(3) by virtue of being deemed to be under common control. In addition, applicants submit that an Investing Portfolio may own more than 5% of the outstanding shares of beneficial interest of one or more of the Money Market Funds. Therefore, applicants state that the Investing Portfolio and the Money Market Funds might be deemed affiliated persons (or affiliates of an affiliate) of each other. Accordingly, applicants state that the sale of shares of the Money Market Funds to the Investing Portfolios, and the redemption of such shares, would be prohibited under section 17(a).

5. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if the terms of the proposed transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, the proposed transaction is consistent with the policies of each registered investment company involved, and with the general purposes of the Act. Section 6(c) of the Act provides, in part, that the Commission may exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision of the Act if, and to the extent that such exemption is necessary or appropriate in the public interest and is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

6. Applicants submit that the request for relief satisfies the standards of sections 17(b) and 6(c) of the Act. Applicants state that the Investing Portfolios will purchase and sell shares on the same terms and on the same basis as shares are purchased and sold by all other shareholders of the Money Market Funds. In addition, under the proposed transactions, the Investing Portfolios will retain their ability to invest their Cash Balances directly in money market instruments as permitted by each Investing Portfolio's investment objectives and policies. Applicants state that each of the Money Market Funds reserves the right to discontinue selling shares to any of the Investing Portfolios if the Money Market Fund board of trustees determines that such sales would adversely affect its portfolio management and operations. Applicants further state that investment of Cash Balances in shares of the Money Market Funds will be made only if not prohibited by such Investing Portfolio's respective investment restrictions and the policies as set forth in the prospectuses and statements of additional information of its corresponding Funds.[3]

7. Section (d) of the Act and rule 17d–1 under the Act prohibit an affiliated person of an investment company, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates, unless the Commission has issued an order authorizing the arrangement. Applicants state that the Investing Portfolios (by purchasing shares of the Money Market Funds), the Adviser (by managing the assets of the Investing Portfolios invested in the Money Market Funds), and the Money Market Funds (by selling shares to and redeeming them from the Investing Portfolios) could be deemed to be participants in a joint enterprise or other joint arrangement within the meaning of section 17(d) of the Act and rule 17d–1 thereunder.

8. In determining whether to authorize a joint transaction, the Commission considers whether the proposed transaction is consistent with the provisions, policies, and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants. Applicants submit that the proposed transactions meet these standards because the investments by the Investing Portfolios in shares of the Money Market Funds would be indistinguishable from any other shareholder account maintained by the Money Market Funds and the transactions will be consistent with the Act.

Applicants' Conditions

Applicants agree that the requested exemption will be subject to the following conditions:

1. Investment of Cash Balances in shares of the Money Market Funds will be in accordance with each Investing Portfolio's respective investment restrictions, if any, and will be consistent with its corresponding Funds' policies as recited in such Funds' prospectuses and statements of additional information (and any supplements thereto). Investing Portfolios that are money market funds will not acquire shares of any Money Market Fund that does not comply with the requirements of rule 2a–7 under the Act.

2. Shares of the Money Market Funds sold to and redeemed by the Investing Portfolios will not be subject to a sales load, redemption fee, distribution fee adopted in accordance with rule 12b–1 under the Act, or service fee (as defined in rule 2830(b)(9) of the NASD Conduct Rules), or if such shares are subject to any such fee, the Adviser will waive its advisory fee for each Investing Portfolio in an amount that offsets the amount of such fees incurred by the Investing Portfolio.

3. Prior to reliance on the order by an Investing Portfolio, the Board of the

[3] If the exemptive relief requested is granted, the current fundamental investment restrictions of any Investing Portfolio would not preclude the Investing Portfolio from investing Uninvested Cash in shares of the Money Market Funds.

Managers Trust of which the Investing Portfolio is a series will hold a meeting for the purpose of voting on an advisory contract under section 15 of the Act. Before approving any advisory contract for an Investing Portfolio, each such Board, including a majority of the Independent Trustees, taking into account all relevant factors, shall consider to what extent, if any, the advisory fee charged to the Investing Portfolio by the Adviser should be reduced to account for reduced services provided to the Investing Portfolio by the Adviser as a result of Uninvested Cash being invested in the Money Market Funds. In connection with this consideration, the Adviser to the Investing Portfolio will provide the Boards with specific information regarding the approximate cost to the Adviser of, or portion of the advisory fee under the existing advisory fee attributable to, managing the Uninvested Cash of the Investing Portfolio that can be expected to be invested in the Money Market Funds. The minute books of the Investing Portfolio will record fully the Boards' consideration in approving the advisory contract, including the considerations referred to above.

4. Each Investing Portfolio will invest Uninvested Cash in, and hold shares of, the Money Market Funds only to the extent that the Investing Portfolio's aggregate investment of Uninvested Cash in all Money Market Funds does not exceed 25 percent of the Investing Portfolio's total assets. For purposes of this limitation, each Investing Portfolio will be treated as a separate investment company.

5. Each Investing Portfolio, each Money Market Fund, and any future investment company that may rely on the order shall be part of the same group of investment companies as defined in section 12(d)(1)(G)(ii) of the Act and shall be advised, or provided the Adviser manages the Cash Balances, sub-advised by the Adviser, or a person controlling, controlled by, or under common control with the Adviser.

6. No Money Market Fund in which an Investing Portfolio invests shall acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act, except as permitted by section 12(d)(1)(E) of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–25865 Filed 10–6–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43396; File No. SR–CHX–00–16 and SR–Amex–00–10]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Amendment No. 1 Thereto and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 2 and 3 by the Chicago Stock Exchange, Inc. Relating to the Listing and Trading of Trust Issued Receipts, and Order Approving Proposed Rule Change and Amendment No. 1 Thereto and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 2 by the American Stock Exchange LLC Relating to the Listing and Trading of Trust Issued Receipts

September 29, 2000.

I. Introduction

On May 5, 2000, the Chicago Stock Exchange, Incorporated (''CHX''), filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change relating to the listing and trading of trust issued receipts. On June 7, 2000, CHX filed Amendment No. 1 to the proposal.[3] The proposed rule change and Amendment No. 1 were published in the **Federal Register** on July 7, 2000.[4] No comments were received on the proposal. On September 7, 2000, CHX filed Amendment No. 2 to the proposal.[5] On September 20, 2000, CHX filed Amendment No. 3 to the proposal.[6] This notice and order approves the proposed rule change and Amendment No. 1, solicits comment from interested persons on Amendment Nos. 2 and 3, and approves Amendment Nos. 2 and 3 on an accelerated basis.

On February 14, 2000, the American Stock Exchange LLC (''Amex'') submitted to the Commission, pursuant to Section 19(b)(1) of the Act and Rule 19b–4 thereunder,[7] a proposed rule change relating to generic listing standards for trust issued receipts. On June 2, 2000, Amex filed Amendment No. 1.[8] The proposed rule change and Amendment No. 1 were published for comment in the **Federal Register** on June 12, 2000.[9] No comments were received on the proposal. On August 29, 2000, Amex filed Amendment No. 2 to the proposal.[10] This notice and order approves the proposed rule change and Amendment No. 1, solicits comment from interested persons on Amendment No. 2, and approves Amendment No. 2 on an accelerated basis.

II. Description of the Proposals

The proposals would amend CHX Article XXVII, Rule 27 and Amex Rule 1202 to provide generic standards that permit listing and trading, or trading pursuant to unlisted trading privileges (''UTP''), of trust issued receipts pursuant to Rule 19b–4(e) of the Act.[11] This procedure would allow Amex and CHX to begin trading qualifying products without the need for notice and comment and Commission approval under section 19(b) of the Act, thus reducing the Exchanges' regulatory burden, and benefiting the public interest.

Amex and CHX believe that their proposals supplement the existing

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, which was incorporated into the proposed rule change, CHX replaced a reference to ''trust issued receipts'' with a reference to ''a series of HOLDRs'' in the text of proposed Interpretation and Policy .01 to CHX Rule 27. *See* Letter from Ellen J. Neely, Vice President and General Counsel, CHX, to Andrew Shipe, Attorney, Division of Market Regulation (''Division''), Commission, dated June 6, 2000.

[4] Securities Exchange Act Release No. 42049 (June 28, 2000), 65 FR 42049.

[5] In Amendment No. 2, CHX changed all references to ''HOLDRs'' in the proposed rule text to ''trust issued receipts.'' *See* Letter from Ellen J. Neely, Vice President and General Counsel, CHX, to Heather Traeger, Attorney, Division, Commission, dated September 5, 2000.

[6] In Amendment No. 3, CHX changed the proposed rule text to clarify that the listing criteria apply to each ''security'' underlying the trust issued receipt, not each ''company.'' *See* Letter from Ellen J. Neely, Vice President and General Counsel, CHX to Heather Traeger, Attorney, Division, Commission, dated September 19, 2000.

[7] 17 CFR 240.19b–4.

[8] *See* letter from Scott Van Hatten, Legal Counsel, Derivative Securities, Amex, to Nancy Sanow, Assistant Director, Division, Commission, dated May 24, 2000. In Amendment No. 1, Amex made several technical changes that were incorporated into the proposed rule change when it was noticed in the **Federal Register**. Amex also clarified that it, and not the Commission, may approve a series of HOLDRs for listing pursuant to Rule 19b–4(e) provided each of the component securities satisfies the proposed listing criteria.

[9] Securities Exchange Act Release No. 42895 (June 2, 2000), 65 FR 36853.

[10] In Amendment No. 2, Amex changed all references to ''HOLDRs'' in the proposed rule text to ''trust issued receipts.'' *See* Letter from Scott Van Hatten, Legal Counsel, Amex, to Nancy Sanow, Assistant Director, Division, Commission, dated August 25, 2000.

[11] Rule 19b–4(e) provides that the listing and trading of a new derivative securities product by a self-regulatory organization (''SRO'') shall not be deemed a proposed rule change, pursuant to paragraph (c)(1) of Rule 19b–4, if the Commission has approved, pursuant to section 19(b) of the Act, the SRO's trading rules, procedures and listing standards for the product class that include the new derivative securities product and the self-regulatory organization has surveillance program for the product class. 17 CFR 240.19b–4(e).

rules [12] with generic listing criteria meant, in part, to ensure that no security underlying a trust issued receipt will be readily susceptible to manipulation, while permitting sufficient flexibility in the construction of various trust issued receipts to meet investors' needs. Amex and CHX further believe that the additional criteria are meant to ensure sufficient liquidity for investors seeking to purchase and deposit the underlying securities with the trustee to create a new trust issued receipt.

Thus, under the proposals, Amex and CHX could list or trade, pursuant to Rule 19b–4(e), any trust issued receipt product that met the following additional criteria: (1) Each component security in the trust issued receipt must be registered under Section 12 of the Act,[13] (2) each component security underlying the trust issued receipt must have a minimum public float of at least $150 million; (3) each component security underlying the trust issued receipt must be listed on a national securities exchange or traded through the facilities of Nasdaq as a reported national market system security; (4) each component security underlying the trust issued receipt must have an average daily trading volume of at least 100,000 shares during the preceding sixty-day trading period; and (5) each component security underlying the trust issued receipt must have an average daily dollar value of shares traded during the preceding sixty-day trading period of at least $1 million. In addition, no underlying security may initially represent more than 20% of the overall value of the receipt.

Finally, Amex and CHX will comply with the recordkeeping requirements of Rule 19b–4(e), and will file Form 19b–4(e) for each trust issued receipt listed under the rule within five business days of commencement of trading.[14]

III. Discussion

After careful review, the Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of section 6(b)(5).[15] Specifically, the Commission finds that the proposals to provide generic standards to permit listing and trading of trust issued receipts pursuant to Rule 19b–4(e) further the intent of that rule by facilitating commencement of trading in these securities without the need for notice and comment and Commission approval under section 19(b) of the Act. By establishing generic standards, the proposals should reduce Amex and CHX's regulatory burden, as well as benefit the public interest, by enabling Amex and CHX to bring qualifying products to the market more quickly. Accordingly, the Commission finds that Amex and CHX's proposals will promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and, in general, protect investors and the public interest consistent with Section 6(b)(5) of the Act.[16]

Rule 19b–4(e) provides that the listing and trading of a new derivative securities product by an SRO shall not be deemed a proposed rule change, pursuant to paragraph (c)(1) of Rule 19b–4, if the Commission has approved, pursuant to section 19(b) of the Act, the SRO's trading rules, procedures and listing standards for the product class that include the new derivative securities product and the SRO has a surveillance program for the product class.[17]

As described above, the Commission has previously approved Amex and CHX rules that permit the listing and trading of individual trust issued receipts on the Exchanges or pursuant to UTP.[18] In approving these securities for trading, the Commission considered their structure, their usefulness to investors and the markets, and the Exchanges' rules and surveillance programs that govern their trading. The Commission concluded then that securities approved for listing under those rules would allow investors to: (1) Respond quickly to changes in the overall securities markets generally and for the industry represented by a particular trust; (2) trade, at a price disseminated on a continuous basis, a single security representing a portfolio of securities that the investor owns beneficially; (3) engage in hedging strategies similar to those used by institutional investors; (4) reduce transactions costs for trading a portfolio of securities; and (5) retain beneficial ownership of the securities underlying the trust issued receipts. The Commission believes, for the reasons set forth below, that additional trust issued receipts that satisfy the proposed generic standards and, therefore, can be listed under Rule 19b–4(e) without prior Commission approval, should produce the same benefits to Amex and CHX and to investors.

The Commission further believes that adopting generic listing standards for these securities and applying Rule 19b–4(e) should fulfill the intended objective of that rule by allowing those trust issued receipt products that satisfy the generic standards to start trading, without the need for notice and comment and Commission approval. Amex and CHX's ability to rely on Rule 19b–4(e) potentially reduces the time frame for bringing these securities to the market or for permitting the trading of these securities pursuant to UTP, and thus enhances investors' opportunities. The Commission notes that while the proposals reduce the Exchanges' regulatory burden, the Commission maintains regulatory oversight over any products listed under the generic standards through regular inspection oversight.

The Commission finds that Amex and CHX's proposals contain adequate rules and procedures to govern the listing and trading of trust issued receipts pursuant to Rule 19b–4(e) on the Amex or CHX, or pursuant to UTP. As the Commission noted in its previous review and approval of CHX Article XXVIII, Rule 27, and Amex Rules 1200 *et seq.,* all trust issued receipt products listed under the generic standards will be subject to the full panoply of Amex and CHX rules and procedures that now govern both the trading of trust issued

[12] The existing Amex and CHX rules provide that trust issued receipts will be listed and traded, or traded pursuant to UTP, subject to application of the following criteria: (a) Initial Listing—For each trust, the Exchange will establish a minimum number of trust issued receipts required to be outstanding at the time of commencement of trading on the Exchange; (b) Continued Listing—Following the initial twelve month period following formation of a trust and commencement of trading on the Exchange, the Exchange will consider the suspension of trading in or removal from listing of a Trust upon which a series of trust issued receipts is based under any of the following circumstances: (i) If the trust has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of trust issued receipts for 30 or more consecutive trading days; (ii) if the trust has fewer than 50,000 receipts issued and outstanding; (iii) if the market value of all receipts issued and outstanding is less than $1,000,000; or (iv) if such other event shall occur or condition exists which in the opinion of the respective Exchange, makes further dealings on the Exchange inadvisable.

[13] 15 U.S.C. 781.

[14] 17 CFR 240.19b–4(e).

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78f(b)(5). In approving these rules, the Commission notes that is has considered the proposed rules' impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[17] *See* Securities Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70952 (December 22, 1998).

[18] *See, e.g.,* Securities Exchange Act Release No. 42056 (October 22, 1999), 64 FR 58870 (November 1, 1999) (CHX); Securities Exchange Act Release No. 41892 (September 21, 1999), 64 FR 52559 (September 29, 1999) (Amex).

receipts and the trading of equity securities on the Amex and CHX, including, among others, rules and procedures governing trading halts, disclosures to members, responsibilities of the specialist, account opening and customer suitability requirements, the election of a stop or limit order, and margin.[19]

The Commission further finds that: (1) By requiring that the underlying securities in a trust issued receipt are registered under section 12 of the Act and listed on a national securities exchange or Nasdaq and (2) by establishing minimum values for the number of outstanding receipts, average daily trading volume, average daily dollar volume, and public float, the Exchanges' proposed listing criteria will help to ensure that a minimum level of liquidity will exist to allow for the maintenance of fair and orderly markets for those trust issued receipt products listed and traded pursuant to Rule 19b–4(e). The Commission believes that these listing criteria will help to ensure that no security underlying a trust issued receipt will be readily susceptible to manipulation, while permitting sufficient flexibility in the construction of various trust issued receipts to meet investors' needs. The Commission further believes that these criteria should serve to ensure that the underlying securities of such trust issued receipts are well capitalized and actively traded, which will help to ensure that U.S. securities markets are not adversely affected by the listing and trading of new trust issued receipts under Rule 19b–4(e). Accordingly, the Commission finds that these criteria are consistent with section 6(b)(5) of the Act, because they serve to prevent fraudulent or manipulative acts; promote just and equitable principles of trade; remove impediments to and perfect the mechanism of a free and open market and a national market system; and protect investors and the public interest.[20]

Additionally, as the Commission noted in its previous review and approval of CHX Article XXVIII, Rule 27, and Amex Rules 1200 *et seq.,* the Exchanges' delisting criteria allow them to consider the suspension of trading and the delisting of a trust issued receipt if an event occurs that makes further dealings in such securities inadvisable. This will give Amex and CHX flexibility to delist trust issued receipts if circumstances warrant. The proposals also rely on procedures to halt trading in trust issued receipts in certain enumerated circumstances that were approved previously by the Commission.[21]

The Commission notes that, in connection with its previous review and approval of CHX Article XXVIII, Rule 27, and Amex rules 1200 *et seq.,* it approved the Exchanges' minimum price increments, their surveillance procedures, and their disclosure and prospectus delivery requirements for trust issued receipts.[22] In accord with these previous findings, the Commission believes that these rules, which will govern the trading of trust issued receipt products listed pursuant to Rule 19b–4(e), will provide adequate safeguards to prevent manipulative acts and practices and to protect investors and the public interest. Further, the Commission believes that the proposals will ensure that investors have information that will allow them to be adequately apprised of the terms, characteristics, and risk of trading trust issued receipts.

Finally, Amex and CHX will file Form 19–4(e) with the Commission within five business days of commencement of trading a trust issued receipt under the generic standards, and will comply with all Rule 19–4(e) recordkeeping requirements.

Accordingly, the Commission believes that Amex and CHX's proposed rules governing the listing and trading of trust issued receipts pursuant to Rule 19–4(e) provide adequate safeguards to prevent manipulative acts and practices and to protect investors and the public interest, consistent with section 6(b)(5) of the Act.[23]

The Commission finds good cause for approving Amendments No. 2 to the CHX and Amex proposed rule changes prior to the thirtieth day after the date of publication of notice in the **Federal Register,** pursuant to section 19(b)(2) of the Act. Amendments No. 2 to the proposed rule changes established that the proposed generic standards are for the listing and trading of all trust issued receipts that satisfy the proposed standards. The proposed generic standards are not limited to HOLDRs, a type of trust issued receipt. Because the amendments establish the scope of the proposed rule change, the Commission believes that it is necessary to approve them at the same time as approving the proposed rule changes. Accordingly, the Commission finds that there is good cause, consistent with section 6(b)(5) of the Act,[24] to approve Amendments No. 2 to the proposals on an accelerated basis.

The Commission also finds good cause for approving Amendment No. 3 to the CHX proposed rule change prior to the thirtieth day after the date of publication of notice in the **Federal Register** pursuant to section 19(b)(2) of the Act. Amendment No. 3 changes the CHX proposed rule text to clarify that the listing criteria apply to the specific ''security'' underlying the trust issued receipt, and not to the ''company'' underlying the trust issued receipt. The Commission believes that this clarification is significant. A company could have multiple issues, only one of which underlies the trust issued receipt. If the text of the proposed rule change used the word ''company,'' the aggregate values for all issues of the company could meet the listing criteria for minimum daily float, daily trading volume and daily dollar volume; yet, these values would not be an accurate accounting of the value of the specific security that underlies the trust issued receipts. Thus, it is conceivable that a security underlying a trust issued receipt might not satisfy the proposed listing criteria, but the company's securities as a whole would satisfy the proposed criteria. Because Amendment No. 3 changes the proposed rule text to specify that it is the individual security that must be evaluated for listing purposes, the Commission believes that it is necessary to approve it at the same time as approving the proposed rule changes. Accordingly, the Commission finds that there is good cause, consistent with section 6(b)(5) of the Act,[25] to approve CHX Amendment No. 3 on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning both Amex Amendment No. 2 and CHX Amendment Nos. 2 and 3, including whether those amendments are consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the

[19] *Id.*

[20] 15 U.S.C. 78f(b)(5).

[21] *See* note 18, *supra.*

[22] *Id.*

[23] 15 U.S.C. 78f(b)(5).

[24] 15 U.S.C. 78s(b)(5).

[25] 15 U.S.C. 78s(b)(5).

provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CHX–00–16 or SR–Amex–00–10 and should be submitted by October 31, 2000.

V. Conclusion

For the foregoing reasons, the Commission finds that Amex and CHX's proposals relating to the listing and trading of trust issued receipts pursuant to Rule 19–4(e) are consistent with the requirements of the Act and rules and regulations thereunder.

It is therefore ordered, pursuant to section19(b)(2) of the Act,[26] that the proposed rule change (SR–CHX–00–16), as amended, and the proposed rule change (SR–Amex–00–10), as amended, are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[27]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–25866 Filed 10–6–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43402; File No. SR–CHX–00–29]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to Fees for the E-Session

October 2, 2000.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 22, 2000, the Chicago Stock Exchange, Incorporated (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange had designated this proposal as one establishing or changing a due, fee, or other charge imposed by the CHX under section 19(b)(3)(A)(ii) of the Act,[3] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its membership dues and fees schedule (the ''Schedule'') to provide Exchange specialists and floor brokers with a credit of $.25 per trade executed during the Exchange's extended hours trading session (''E-Session'')[4] through December 31, 2000. The text of the proposed rule change is below. Additions are in italics. Deletions are in brackets.

Membership Dues and Fees

* * * * *

M. Credits

1. Specialists Credits

Total monthly fees owed by a specialist to the Exchange will be reduced (but to no less than zero) by the application of the following [transaction] credits:

a. No change to text.

b. No change to text.

c. E-Session Credits. A credit of $.25 per trade executed during the E-Session. This credit shall be available through *December 31, 2000* [October 1, 2000].

2. Floor Broker Credits

a. No change to text.

b. No change to text.

c. E-Session Credits. Total monthly fees owed by a floor broker to the Exchange will also be reduced (but to no less than zero) by the application of an E-Session Credit. ''E-Session Credit'' means a credit of $.25 per trade executed during the E-Session. This credit shall be available through *December 31, 2000* [October 1, 2000].

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Section A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On October 29, 1999, the Exchange implemented the E-Session, which permits investors to submit limit orders for execution until 5:30 p.m., Central Time. To encourage members to seek additional order flow during the E-Session, the Exchange developed an E-Session credit program that provides Exchange specialists and floor brokers with a credit of $.25 per trade executed during the E-Session. The credit program was effective on filing with the Commission in May 2000,[5] and is scheduled to expire on October 1, 2000. This proposal extends the E-Session credit program through December 31, 2000.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act[6] in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[7] and subparagraph (f)(2) of Rule 19b–4 thereunder,[8] because it involves a due, fee, or other charge. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily

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[26] 15 U.S.C. 78s(b)(2).

[27] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] On October 13, 1999, the Commission approved, on a pilot basis, the CHX's proposed rule change that allowed the CHX to implement an extended hours trading session. *See* Securities Exchange Act Release No. 42004 (October 13, 1999), 64 FR 56548 (October 20, 1999)(SR–CHX–99–16). The Commission recently approved the CHX's proposal to make the E-Session a permanent part of the CHX's operations. *See* Securities Exchange Act Release No. 43304 (September 19, 2000), 65 FR 57850 (SR–CHX–00–26). The E-Session takes place from 3:30 p.m. to 5:30 p.m., Central Time, Monday through Friday.

[5] *See* Securities Exchange Act Release No. 42784 (May 15, 2000), 65 FR 33383 (May 23, 2000 (SR–CHX–00–12).

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 CFR 240.19b–4(f)(2).

abrogate such rule change if it appears if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[9]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, an subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to file number SR–CHX–00–29, and should be submitted by October 31, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–25867 Filed 10–6–00; 8:45 am]

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[9] The Commission notes that the proposal may raise questions concerning payment for order flow. To the extent that it does raise such issues, exchange members should consider best execution and disclosure obligations they may have under the federal securities laws in general, and particularly under Rules 10b–10 and 11Ac1–3 under the Act. 17 CFR 240.10b–10 and 17 CFR 240.11Ac1–3, respectively.

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43403; File No. SR–CHX–00–30]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to Membership Dues and Fees During the E-Session

October 2, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 22, 2000, the Chicago Stock Exchange, Incorporated (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items, I, II, and III below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the CHX under Section 19(b)(3)(A)(ii) of the Act,[3] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its membership dues and fees schedule (the ''Schedule'') to continue, through December 31, 2000, the waiver of all transaction, order processing and floor broker fees for transactions that occur during the CHX's E-Session extended hours trading session. The text of the proposed rule change is available upon request from the CHX and the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change amends the Schedule to eliminate, through December 31, 2000, order processing, transaction and floor broker fees for transactions that occur during the CHX's E-Session.[4] This proposal is designed to allow CHX members to continue to participate in the E-Session without incurring the fees normally associated with their CHX transactions.[5] According to the Exchange, the vast majority of the securities that trade during the E-Session are already subject to order processing and transaction fee waivers under the current fee schedule because they are either Nasdaq/NMS issues or issues within the S&P 500. Waiving fees on the few remaining securities and on floor broker transactions in all securities simplifies the Exchange's fee-related communications with its members.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act[6] in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] On October 13, 1999, the Commission approved, on a pilot basis, the CHX's proposed rule change that allowed the CHX to implement an extended hours trading session. *See* Securities Exchange Act Release No. 42004 (October 13, 1999), 64 FR 56548 (October 20, 1999) (SR–CHX–99–16). The Commission recently approved the CHX's proposal to make the E-Session a permanent part of the CHX's operations. *See* Securities Exchange Act Release No. 43304 (September 19, 2000), 65 FR 57850 (SR–CHX–00–26). The E-Session takes place from 3:30 p.m. to 5:30 p.m., Central Time, Monday through Friday.

[5] E-Session fees have been waived since the beginning of the E-Session. *See* Securities Exchange Act Release Nos. 42089 (November 2, 1999), 64 FR 60864 (November 8, 1999) (SR–CHX–99–23) (waiving fees from October 13, 1999 through December 31, 1999); 42329 (January 11, 2000), 65 FR 3000 (January 19, 2000) (SR–CHX–99–29) (waiving fees from January 1, 2000 through March 1, 2000); 42486 (March 2, 2000), 65 FR 12601 (March 9, 2000) (SR–CHX–005) (waiving fees from March 2, 2000 through June 30, 2000); and 42929 (June 13,2000), 65 FR 38620 (June 21, 2000) (SR–CHX–00–18) (waiving fees from July 1, 2000 through October 1, 2000). This proposal simply extends the waiver of the same fees through December 31, 2000. *See* October 2, 2000 telephone conversation between Ellen J. Neely, Vice President and General Counsel, CHX, and Joseph P. Morra, Special Counsel, Division of Market Regulation, SEC.

[6] 15 U.S.C. 78f(b)(4).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act [7] and subparagraph (f)(2) of Rule 19b–4 thereunder,[8] because it involves a due, fee, or other charge. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to file number SR–CHX–00–30, and should be submitted by October 31, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–25868 Filed 10–6–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43404; File No. SR–PCX–99–50]

Self-Regulatory Organizations; Pacific Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to Non-Agency Orders in P/COAST

October 2, 2000.

I. Introduction

On November 18, 1999, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') submitted to the Securities and Exchange Commission (''Commission'' or ''SEC'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to allow non-agency orders to be routed through and executed in the Pacific Computerized Order Access SysTem (''P/COAST'').

The proposed rule change was published for comment in the **Federal Register** on February 3, 2000.[3] No comments were received on the proposal. This order approves the proposal.

II. Description of Proposal

The P/COAST system is the Exchange's communication, order routing and order execution system for equity securities. Currently, only agency orders are permitted to be routed through, and executed in, the P/COAST system.[4] In the proposed rule change, the Exchange seeks to abolish the current rule, and allow both agency and principal orders to be routed through and executed in the P/COAST system.

The Exchange is not proposing to change its existing rules regarding the priority of bids and offers,[5] which do not currently distinguish between agency and principal orders. Accordingly, agency and principal orders will be able to be routed and executed through the P/COAST system.

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[6] In particular, the Commission believes that the proposed rule is consistent with the requirements of Section 6(b)(5) of the Act [7] because it is designed to help perfect the mechanism of a free and open market and is not designed to permit unfair discrimination between customer and brokers or dealers.

Under the Exchange's proposed rule change, non-agency orders may be routed through the P/COAST system for execution. Currently, principal orders are executed manually on the floor of the Exchange. The Commission believes that the proposed rule change should be beneficial because it will allow broker-dealers to take advantage of the increased speed associated with the use of P/COAST, thus providing more efficient execution of their orders. However, according to the PCX, orders of specialists and floor brokers will not be able to be entered into the P/COAST system.[8]

The Commission believes that the Exchange's proposal is consistent with the Act because it does not discriminate between customers, brokers or dealers: all orders in a particular stock will receive the same treatment whether the order is an agency or non-agency order. However, orders of PCX members will still have to comply with Section 11(a) of the Act.[9] Further, the proposal should facilitate transactions on the Exchange because all eligible orders will now be routed automatically by the P/COAST system. This should lead to more timely executions of principal orders.

IV. Conclusion

It Is therefore Ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (SR–PCX–99–50) is approved.

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 CFR 240.19b–4(f)(2).

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Release No. 42357 (Jan. 27, 2000), 65 FR 5383.

[4] *See* PCX Rule 5.25(b)(1).

[5] *See, e.g.,* PCX Rule 5.8(c).

[6] In approving this rule proposal, the Commission notes that it has also considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78f(b)(5).

[8] Telephone conversation between Michael Pierson, Vice President, Regulatory Policy, PCX, and Kelly Riley, Attorney, Division of Market Regulation, Commission, on September 12, 2000.

[9] 15 U.S.C. 78j.

[10] 15 U.S.C. 78f(b)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–25919 Filed 10–6–00; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice 3432]

Advisory Committee on International Communications and Information Policy; Meeting Notice

The Department of State is announcing the next meeting of its Advisory Committee on International Communications and Information Policy. This is in place of the September 14, 2000 meeting that had to be postponed.

The Committee provides a formal channel for regular consultation and coordination on major economic, social and legal issues and problems in international communications and information policy, especially as these issues and problems involve users of information and communication services, providers of such services, technology research and development, foreign industrial and regulatory policy, the activities of international organizations with regard to communications and information, and developing country interests.

There will be a featured guest speaker at the meeting who will speak on an important topic involving international communications and information policy.

This meeting will be held on Thursday, October 26, 2000, from 9:30 a.m.–12:30 p.m. in Room 1107 of the Main Building of the U.S. Department of State, located at 2201 ''C'' Street, NW., Washington, DC 20520.

Members of the public may attend these meetings up to the seating capacity of the room. While the meeting is open to the public, admittance to the State Department Building is only by means of a pre-arranged clearance list. In order to be placed on the pre-clearance list, please provide your name, title, company, social security number, date of birth, and citizenship to Timothy C. Finton at <fintontc@state.gov>. All attendees for this meeting must use the 23rd Street entrance. One of the following valid ID's will be required for admittance: any U.S. driver's license with photo, a passport, or a U.S. Government agency ID. Non-U.S. Government attendees must be escorted by State Department personnel at all times when in the State Department building.

For further information, contact Timothy C. Finton, Executive Secretary of the Committee, at (202) 647–5385 or <fintontc@state.gov>.

Dated: October 3, 2000.

Timothy C. Finton,

Executive Secretary.

[FR Doc. 00–25974 Filed 10–6–00; 8:45 am]

BILLING CODE 4710–45–U

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Determination Under the Caribbean Basin Trade Partnership Act

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The United States Trade Representative has determined that Belize, Costa Rica, Dominican Republic, El Salvador, Guatemala, Haiti, Honduras, Jamaica, Nicaragua, and Panama have implemented and follow, or are making substantial progress toward implementing and following, the customs procedures required by the Caribbean Basin Trade Partnership Act and, therefore, imports of eligible products from these countries qualify for the enhanced trade benefits provided under the Act.

EFFECTIVE DATE: October 2, 2000.

FOR FURTHER INFORMATION CONTACT: Christopher Wilson, Director for Central America and the Caribbean, Office of the United States Trade Representative, (202) 395–5190.

SUPPLEMENTARY INFORMATION: The Caribbean Basin Trade partnership Act (Title II of the Trade and Development Act of 2000, Pub. L. No. 106–200) (CBTPA) expands the trade benefits available to Caribbean and Central American countries under the Caribbean Basin Economic Recovery Act (CBERA). The CBTPA reduces or eliminates tariffs and eliminates quantitative restrictions on certain products that previously were not eligible for preferential treatment under the CBERA. The enhanced trade benefits provided by the CBTPA are available to imports of eligible products from countries that (1) are designated as ''CBTPA beneficiary countries,'' and (2) have implemented and follow, or are making substantial progress toward implementing and following, certain customs procedures, drawn from Chapter 5 of the North American Free Trade Agreement, that allow U.S. Customs to verify the origin of the products.

On October 2, 2000, the President designated all 24 current beneficiaries under the CBERA as ''CBTPA beneficiary countries.'' Proclamation 7351 delegated to the United States Trade Representative (USTR) the authority to determine whether the designated CBTPA beneficiary countries have implemented and follow, or are making substantial progress toward implementing and following, the customs procedures required by the CBTPA. The President directed the USTR to announce any such determinations in the **Federal Register** and to implement any such determinations in the Harmonized Tariff Schedule (HTS).

Based on information and commitments received from beneficiary countries to date, I have determined that Belize, Costa Rica, Dominican Republic, El Salvador, Guatemala, Haiti, Honduras, Jamaica, Nicaragua, and Panama have implemented and follow, or are making substantial progress toward implementing and following, the customs procedures required by the CBTPA. Accordingly, pursuant to the authority vested in the USTR by Proclamation 7351, the HTS is modified as provided in Proclamation 7351 and as specified in the Annex to this notice, effective with respect to articles entered, or withdrawn from warehouse, on or after October 2, 2000. The USTR will publish additional notices in the **Federal Register** announcing any determinations that other CBTPA beneficiary countries have satisfied the required customs procedures.

Charlene Barshefsky,

United States Trade Representative.

Annex

Pursuant to the authority created in Proclamation 7351, the HTS is modified as follows:

1(a). General note 17(a) to the HTS, as established by the annex to such Proclamation, is modified by inserting at the end of the text the following new sentence and enumeration:

''The following countries have been determined by the USTR to have satisfied the customs requirements of the CBTPA and, therefore, to be afforded the tariff treatment provided for in this note:

Belize, Costa Rica, Dominican Republic, El Salvador, Guatemala, Haiti, Honduras, Jamaica, Nicaragua, Panama''

(b). General note 17(d) to the HTS, as established by the annex to such Proclamation, is modified by striking ''the date announced in a **Federal Register** notice issued by the United

[11] 17 CFR 200.30–3(a)(12)

States Trade Representative'' and by inserting in lieu thereof ''October 2, 2000.''

2. The text of U.S. note 7 to subchapter II of chapter 98 of the HTS, as established by the annex to such Proclamation, is modified by inserting before it the paragraph designation ''(b)''. Such paragraph is modified by inserting at the end thereof the following new sentence and enumeration:

''The following countries have been determined by the USTR to have satisfied the customs requirements of the CBTPA and, therefore, to be afforded the tariff treatment provided for in this note:

Belize, Costa Rica, Dominican Republic, El Salvador, Guatamala, Haiti, Honduras, Jamaica, Nicaragua, Panama''

3. U.S. note 1 subchapter XX of chapter 98 of the HTS, as established by the annex to such Proclamation, is modified by adding at the end of the text of such note the following new sentence and enumeration:

''The following countries have been determined by the USTR to have satisfied the customs requirements of the CBTPA and, therefore, to be afforded the tariff treatment provided for in this note:

Belize, Costa Rica, Dominican Republic, El Salvador, Guatemala, Haiti, Honduras, Jamaica, Nicaragua, Panama''

4. U.S. note 2(b) and (c) are each modified by striking the expression ''the date announced in a **Federal Register** notice issued by the United States Trade Representative'' and by inserting in lieu thereof ''October 2, 2000''.

[FR Doc. 00–26072 Filed 10–5–00; 2:22 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and its implementing regulations, this 30-day notice announces that the Information Collection Requirement (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collections of information was published on July 25, 2000 (65 FR 45825).

DATES: Comments must be submitted on or before November 9, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 17, Washington, DC 20590 (telephone: (202) 493–6292), or Dian Deal, Office of Information Technology and Productivity Improvement, RAD–20, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6133). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Pub. L. No. 104–13, § 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 C.F.R. Part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 C.F.R. 1320.5, 1320.8(d)(1), 1320.12. On July 25, 2000, FRA published a 60-day notice in the **Federal Register** soliciting comment on ICRs that the agency was seeking OMB approval. 65 FR 45825. FRA received no comments in response to this notice.

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30 day notice is published. 44 U.S.C. 3507 (b)-(c); 5 CFR 1320.12(d); see also 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30 day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); see also 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the information collection requirements (ICRs) and the expected burden. The revised requirements are being submitted for clearance by OMB as required by the PRA.

Title: Regional Inspection Point Listing Forms.

OMB Control Number: 2130-New.

Type of Request: New collection.

Affected Public: Businesses.

Form(s): FRA F 6180.106(a)-(e).

Abstract: Through a direct comparison of inspection data with accident/incident data, the collection of information proposes to develop a profile county-by-county of what there is to inspect, and how much inspection activity was done by Federal and State railroad inspectors each year nationwide. The information collected will produce ''snapshots'' which will allow FRA to determine where the gaps are in inspection territories so that it can focus inspection resources where they will do the most good. As a result of the proposed information collection, FRA will be better able to equalize inspector workloads, and will be able to make informed hiring decisions regarding the most effective placement of new inspectors. More targeted inspections will permit FRA to maximize its limited resources, and will serve to enhance overall safety on the nation's rail system.

Annual Estimated Burden Hours: 3,387.

Addressee: Send comments regarding these information collections to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street, NW., Washington, DC, 20503. Attention: FRA Desk Officer.

Comments are invited on the following: Whether the proposed collections of information are necessary for the proper performance of the functions of FRA, including whether the information will have practical utility; the accuracy of FRA's estimates of the burden of the proposed information collections; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collections of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC on October 3, 2000.

Kathy A. Weiner,

Director, Office of Information Technology and Support Systems, Federal Railroad Administration.

[FR Doc. 00–25973 Filed 10–6–00; 8:45 am]

BILLING CODE 4910–06–U

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 99–6207, Notice 2]

Bombardier Motor Corporation of America, Inc.; Grant of Application for Decision of Inconsequential Noncompliance

This notice grants the application by Bombardier Motor Corporation of America, Inc. (BMCA) to be exempted from the notification and remedy requirements of 49 U.S.C. 30118 and 30120 for vehicles that fail to comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 209, *Seat Belt Assemblies*. By not complying with FMVSS No. 209, the vehicles also fail to comply with FMVSS No. 500, *Low Speed Vehicles*. BMCA has filed an appropriate report pursuant to 49 CFR Part 573 ''Defect and Noncompliance Reports.'' BMCA has also applied under 49 CFR Part 556 to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301 ''Motor Vehicle Safety.'' The basis of the petition is that the noncompliance is claimed to be inconsequential to motor vehicle safety.

Notice of receipt of the application was published in the **Federal Register** November 8, 1999 and an opportunity afforded for comment (64 FR 61178). The comment closing date was December 9, 1999.

No comments were received.

Background

BMCA is a Delaware corporation with its principal place of business at 730 East Strawbridge Avenue, Melbourne, FL 32901. BMCA is the importer (manufacture) of a Low-Speed Vehicle (''LSV'') under the brand name Bombardier NV neighborhood vehicle. This vehicle is built by Bombardier, Inc., in Canada. On May 6, 1999, BMCA sent the National Highway Traffic Safety Administration (NHTSA) a letter pursuant to Title 49, Part 573 of the Code of Federal Regulations, for the purpose of reporting to NHTSA a noncompliance with FMVSS No. 209, S4.1(j)—''Marking.'' FMVSS No. 500 *Low-Speed Vehicles,* requires vehicles such as the Bombardier NV to be equipped with seat belt assemblies that comply with FMVSS No. 209.

FMVSS No. 209 S4.1 (j) requires that each seat belt assembly be permanently and legibly marked or labeled with the year of manufacture, model, and name or trademark of manufacturer or distributor, or of importer if manufactured outside the United States. The seat belt assemblies, manufactured by Good Success Corporation, model AB401 (309), installed in Bombardier NVs sold between June 17, 1998 and April 9, 1999 do not have the requisite marking or labeling. With the exception of the marking, the seat belt assemblies in question are said to comply fully with FMVSS No. 209.

Bombardier argues that, because the labeling noncompliance has no bearing on the materials or performance standards specified in FMVSS No. 209, all the seat belt assemblies in question were properly installed as original equipment, and BMCA's replacement part system would preclude the purchase and installation of an improper replacement seat belt assembly for a Bombardier NV, the noncompliance poses no motor vehicle safety risk.

Discussion

NHTSA has reviewed BMCA's application and, for the reasons discussed below, has decided that the noncompliance of the BMCA seat belt assemblies and the Bombardier NVs with the specified labeling requirements, is inconsequential to motor vehicle safety. Included in the petition was a letter from Erlin, Himes Associates to the seat belt assembly manufacturer, Good Success Corporation, indicating that the seat belt assemblies tested meet the performance requirements of FMVSS No. 209 for the type of seat belt assemblies tested.

NHTSA agrees that the lack of the correct label would not have any effect on occupant safety in these circumstances. BMCA produces only one vehicle model for highway use, and there is only one model of seat belt retractor for these vehicles. Therefore, it is highly unlikely that the wrong assemblies will be provided for replacement.

NHTSA has granted similar petitions for noncompliance with seat belt assembly labeling standards. *See, generally, TRW, Inc.,* Dkt. No. 92–67; Notice 2, 58 FR 7171 (1993); *Chrysler Corporation,* Dkt. No. 92–94–No.2, 57 Fed. Reg. 45,865 (1992). In both of these cases, the petitioners demonstrated that the noncompliant seatbelt assemblies were properly installed, and due to their respective replacement parts ordering systems, improper replacement seat belt assembly selection and installation would not be likely to occur.

In consideration of the foregoing, NHTSA has decided that the applicant has met its burden of persuasion that the noncompliance that it describes is inconsequential to safety. The determination is limited to the vehicles and equipment covered by the Part 573 report.

Accordingly, BMCA's application is granted, and it is exempted from providing the notification of noncompliance that is required by 49 U.S.C. 30118, and from remedying the noncompliance, as required by 49 U.S.C. 30120. All products manufactured or sold on and after the April 9, 1999, including any replacement seat belt assemblies, must comply fully with the requirements of FMVSS Nos. 500 and 209.

Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.

Issued on: October 4, 2000.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 00–25972 Filed 10–6–00; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Preemption Determination No. PD–13(R); Docket No. RSPA–97–2581 (PDA–16(R))]

Nassau County, New York, Ordinance on Transportation of Liquefied Petroleum Gases

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Decision on petition for reconsideration of administrative determination of preemption.

Petitioner: New York Propane Gas Association (NYPGA)

Local Laws Affected: Nassau County, New York, Ordinance No. 344–1979, Sections 6.7(A) & (B) and Section 6.8.

Applicable Federal Requirements: Federal hazardous material transportation law, 49 U.S.C. 5101 *et seq.*, and the Hazardous Materials Regulations (HMR), 49 CFR Parts 171–180.

Modes Affected: Highway.

SUMMARY: Based on additional information provided by NYPGA and persons submitting comments on NYPGA's petition for reconsideration, RSPA finds that the requirement in Sections 6.7(A) and (B) of Ordinance No. 344–1979 for a permit to deliver liquefied petroleum gas (LPG) within Nassau County is preempted with respect to trucks that are based outside of Nassau County. As applied to and enforced against those vehicles, that requirement causes unnecessary delays in the transportation of hazardous

materials to Nassau County from locations outside the County and, accordingly, creates an obstacle to accomplishing and carrying out Federal hazardous material transportation law and the HMR. Nassau County's permit requirement does not create unnecessary delays in the transportation of hazardous materials, and is not preempted, with respect to trucks that are based within Nassau County.

No person requested reconsideration of that part of RSPA's August 25, 1998 determination which found that Federal hazardous material transportation law preempts Section 6.8 of Ordinance No. 344–1979 for a certificate of fitness, insofar as that requirement is applied to a motor vehicle driver who sells or delivers LPG, because Section 6.8 imposes more stringent training requirements than provided in the HMR.

This decision constitutes RSPA's final action on NYPGA's application for a determination that Federal hazardous material transportation law preempts Sections 6.7(A) and (B) and 6.8 of Nassau County Ordinance No. 344–1979.

FOR FURTHER INFORMATION CONTACT: Frazer C. Hilder, Office of the Chief Counsel, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590–0001, telephone 202–366–4400.

SUPPLEMENTARY INFORMATION:

I. Background

A. Preemption Determination (PD) No. 13(R)

NYPGA applied for a determination that Federal hazardous material transportation law preempts Sections 6.7(A) and (B) and Section 6.8 of Nassau County, New York, Ordinance No. 344–1979, concerning Fire Department permits and ''certificates of fitness'' for the delivery of liquefied petroleum gas (LPG) within Nassau County. RSPA published the text of NYPGA's application in the **Federal Register** and invited interested parties to comment. 62 FR 61661 (June 10, 1997). Comments were received from the National Propane Gas Association, National Tank Truck Carriers, Inc. (NTTC), New York State Motor Truck Association, Star-Lite Propane Gas Corp. (Star-Lite), the Association of Waste Hazardous Materials Transporters (AWHMT), and Nassau County. NYPGA submitted rebuttal comments.

On August 25, 1998, RSPA published in the **Federal Register** its determination that the requirement in Section 6.8 for a certificate of fitness is preempted, insofar as that requirement is applied to a motor vehicle driver who sells or delivers LPG, because Section 6.8 imposes on drivers of motor vehicles used to deliver LPG more stringent training requirements than provided in the HMR. PD–13(R), 63 FR 45283.

At the same time, RSPA concluded that there was insufficient information to find that Federal hazardous material transportation law preempts the requirement in Sections 6.7(A) and (B) of Ordinance No. 344–1979 for a permit to pick up or deliver LPG within Nassau County. NYPGA's application and the comments failed to show that: (1) the inspection and fee required to obtain a permit cause an unnecessary delay in the transportation of hazardous materials; (2) the permit fee is unfair or used for purposes other than relating to transporting hazardous materials, including enforcement and planning, developing, and maintaining a capability for emergency response; or (3) the permit sticker is a labeling or marking of hazardous material within the meaning and intent of the HMR's hazard communication requirements. *Id.*

In Part I.B. of its August 25, 1998 determination, RSPA explained that propane is a form of LPG that is used throughout the United States for home and commercial heating and cooking, in agriculture, in industrial processing, and as a clean-air alternative fuel for both over-the-road vehicles and industrial lift trucks. 63 FR at 45284. Many propane gas dealers are small businesses that serve customers within 50 miles, although larger dealers may deliver to customers farther away. *Id.* Because New York has adopted the HMR as State law, any company that delivers propane in Nassau County has long been subject to the HMR's substantive requirements, even if that company was an intrastate carrier and not directly governed by the HMR before October 1, 1998. *Id.*

In Part I.C. of PD–13(R), RSPA discussed the standards for making determinations of preemption under the Federal hazardous material transportation law. 63 FR at 45284–85. As RSPA explained, unless there is specific authority in another Federal law or DOT grants a waiver, a local (or other non-Federal) requirement is preempted if:

—it is not possible to comply with both the local requirement and a requirement in the Federal hazardous material transportation law or regulations;

—the local requirement, as applied or enforced, is an ''obstacle'' to the accomplishing and carrying out of the Federal hazardous material transportation law or regulations; or

—the local requirement concerns any of five specific subjects and is not ''substantively the same as'' a provision in the Federal hazardous material transportation law or regulations. Among these five subjects are ''the designation, description, and classification of hazardous material'' and the labeling or marking of hazardous material or a packaging or container certified as ''qualified for use in transporting hazardous material.''

See 49 U.S.C. 5125(a) & (b).

In addition, a State, political subdivision, or Indian tribe may impose a fee related to transporting hazardous material ''only if the fee is fair and used for a purpose relating to transporting hazardous material, including enforcement and planning, developing, and maintaining a capability for emergency response.'' 49 U.S.C. 5125(g)(1).

These preemption provisions stem from congressional findings that State and local laws which vary from Federal hazardous material transportation requirements can create ''the potential for unreasonable hazards in other jurisdictions and confounding shippers and carriers which attempt to comply with multiple and conflicting * * * regulatory requirements,'' and that safety is advanced by ''consistency in laws and regulations governing the transportation of hazardous materials.'' Pub. L. 101–615 §§ 2(3) & 2(4), 104 Stat. 3244.

RSPA also explained that its ''[p]reemption determinations do not address issues of preemption under the Commerce Clause of the Constitution or under statutes other than the Federal hazardous material transportation law unless it is necessary to do so in order to determine whether a requirement is authorized by another Federal law.'' 63 FR at 45285.

B. Petition for Reconsideration and Further Submissions

Within the 20-day time period provided in 49 CFR 107.211(a), NYPGA filed a petition for reconsideration of RSPA's determination in PD–13(R) that there was insufficient information to find that Federal hazardous material transportation law preempts the requirement in Sections 6.7(A) and (B) of Ordinance No. 344–1979 for a permit to pick up or deliver LPG within Nassau County. NYPGA certified that it had mailed a copy of its petition to the County Executive and all others who had submitted comments.

Neither NYPGA nor any other party has petitioned RSPA to reconsider that part of PD–13(R) that found that the certificate of fitness requirement is preempted. In its January 19, 1999 ''Affirmation in Opposition to Petition for Reconsideration,'' Nassau County stated,

> As of November 23, 1998, the County of Nassau has stopped enforcing the provision of Section 6.8 dealing with the requirement for a Certificate of Fitness for LP truck drivers.[1]

On September 17, 1998, RSPA received an undated letter from NTTC requesting reconsideration of RSPA's determination with respect to Nassau County's permit requirement. Because this request was submitted more than 20 days after publication of PD–13(R) in the **Federal Register**, it is not a timely petition for reconsideration. 49 CFR 107.211(a). Nonetheless, NTTC's letter is being treated as a comment in support of NYPGA's petition for reconsideration.

RSPA has also received the following additional submissions, all of which have been placed in the docket:

—an October 26, 1998 letter from Long Island Bottle Gas with an undated extract from the *New York Law Journal* and a copy of its brief to the Appellate Division in the appeal of the Suffolk County Supreme Court's dismissal of its actions against the Towns of Smithtown and Brookhaven.

—November 14, 1998 rebuttal comments submitted by AWHMT in Docket No. RSPA–98–3579 (PDA–20(RF)), expressing concerns about RSPA's decision in PD–13(R);

—a January 18, 1999 letter from Atlantic Bottle Gas Co., Inc., of Hicksville, New York, describing its inability to make deliveries of propane in Nassau County for more than two days until it had its ''spare truck'' inspected by the Nassau County Fire Marshal;

—the January 19, 1999 ''Affirmation'' from Nassau County in opposition to NYPGA's petition for reconsideration and NTTC's submission;

—a February 16, 1999 response by NYPGA to Nassau County's Affirmation;

—a facsimile transmission on March 2, 1999, from Long Island Bottle Gas, forwarding a copy of a March 1, 1999 memorandum issued by the Oil Heat Institute of Long Island concerning inspection requirements in 49 CFR 396.11 and 395.17;

—a further undated extract from the *New York Law Journal*, received from Long Island Bottle Gas on March 8, 1999;

—a September 7, 1999 ''Addenda'' to NYPGA's petition for reconsideration discussing and attaching a hearing transcript in *New York* v. *Star Lite Propane Gas Corp.,* Nos. 19595/98, 20872/98 & 20879/98 (Nassau Cty. Dist. Ct. Aug. 11, 1999), dismissing a summons issued to Star Lite for transporting LPG without a permit from Nassau County;

—September 27 and October 1, 1999 letters from Nassau County requesting an opportunity to respond to NYPGA's Addenda (Nassau County did not submit any further response to NYPGA's petition for reconsideration, February 16, 1999 response, or September 7, 1999 Addenda); and

—a facsimile transmission on June 26, 2000, from NYPGA forwarding a March 20, 2000 decision of the District Court of Suffolk County that Federal hazardous material transportation law preempts Section 164–109(A) of the Smithtown Town Code requiring any person filling containers where LPG is sold or transferred to hold a certificate of fitness issued by the County Fire Marshal.

At a March 29, 2000 public meeting held by RSPA in Secaucus, New Jersey, Star Lite's president (who stated he was also the president of NYPGA) expressed concerns about the length of time since NYPGA's original application and RSPA's failure to call him with questions. A summary of his remarks has been placed in the docket.

Throughout this proceeding, and as recently as September 2000, various persons interested in this proceeding have inquired as to the status of RSPA's decision on NYPGA's petition for reconsideration. In each instance, RSPA stated that it was in the process of preparing its decision, but that it was impossible to predict when the decision would be issued. Because there was no discussion of the substantive issues involved in this proceeding, it was not considered necessary to place in the docket a summary of these inquiries. All the information on which this decision is based is contained in the docket and, to the extent considered relevant, discussed below.

II. Discussion

NYPGA's petition for reconsideration and Nassau County's response contain many disagreements as to how Nassau County's permit and inspection requirements are administered. When all the arguments are sorted out, however, NYPGA's petition for reconsideration appears to raise the following five issues: (1) Whether permit and inspection requirements apply only to LPG and not to other hazardous materials; (2) whether Nassau County is authorized and qualified to conduct leak testing or inspections of cargo tanks and vehicles; (3) whether the permit and inspection requirements cause an unreasonable delay in the transportation of hazardous materials; (4) whether the permit fee is fair and used for purposes relating to transporting hazardous materials, including enforcement and planning, developing, and maintaining a capability for emergency response; and (5) whether the permit ''sticker'' is a marking or labeling of hazardous material, or of a packaging represented as qualified for transporting hazardous material, that is not substantively the same as provided in the HMR. Each of these issues is discussed below.

A. Materials Regulated by Nassau County

NYPGA and Atlantic Bottle Gas Co. both assert that a permit is not required for the delivery of any other hazardous material within the County. Nassau County replies that the ''same requirements [for inspections, fees and permits] are required by Nassau County ordinance for oxidizers, compressed gases, and combustible liquids.''

Federal hazardous material law preempts a State, local or Indian tribe law on ''the designation, description, and classification of hazardous material'' that is not ''substantively the same as'' the HMR. 49 U.S.C. 5125(b)(1)(A). However, in numerous circumstances, RSPA has found that a State or locality may regulate *some* hazardous materials in a manner that is consistent with the HMR, so long as the non-Federal jurisdiction has not attempted to create new hazardous materials definitions or classifications.

In IR–5, City of New York Administrative Code Governing Definitions of Certain Hazardous Materials, 47 FR 51991, 51993 (Nov. 18, 1982), RSPA found that the former HMTA preempted definitions of hazardous materials that

[1] According to materials submitted by Long Island Bottle Gas Supply and Service Corp. (Long Island Bottle Gas) in October 1998 and March 1999, that company challenged similar requirements of the Towns of Smithtown and Brookhaven, in Suffolk County, that drivers hold a certificate of fitness to deliver LPG. These materials appear to indicate that a trial court granted summary judgment in favor of the two Towns against Long Island Bottle Gas, but that the Appellate Division of the New York Supreme Court reversed the trial court's decision. In March 2000, the District Court of Suffolk County found that Federal hazardous material transportation law preempts Suffolk County's certificate of fitness requirement and referred to RSPA's decision in PD–13(R).

broaden the scope of materials that are subject to the City's requirements to materials that are not subject to the HMR [and] * * * classify some materials differently, for purposes of the City's requirements, from their classification for purposes of application of the HMR.

Similarly, when a city assigned ''an entirely different meaning'' to the term ''radioactive material,'' which ''in effect, created a new hazard class,'' RSPA concluded that this differing definition was inconsistent with the HMR. IR–16, Tucson City Code Governing Transportation of Radioactive Materials, 50 FR 20872, 20874 (May 20, 1985). RSPA has also found that imposing local requirements on six specified types of radioactive materials ''created, in effect, a new hazard class * * *'' IR–18, Prince Georges County, MD; Code Section Governing Transportation of Radioactive Materials, 52 FR 200, 202 (Jan. 2, 1987), decision on appeal, 53 FR 28850 (July 29, 1988). RSPA stated that:

If every jurisdiction were to assign additional requirements on the basis of independently created and variously named subgroups of radioactive materials, the resulting confusion of regulatory requirements would lead directly to the increased likelihood of reduced compliance with the HMR and subsequent decrease in public safety.

Id., quoting from IR–12, St. Lawrence County, New York; Local Law Regulating the Transportation of Radioactive Materials Through St. Lawrence County, 49 FR 46650, 46651 (Nov. 27, 1984).

As RSPA also noted in IR–19, Nevada Public Service Commission Regulations Governing Transportation of Hazardous Materials, 52 FR 24404, 24406 (June 30, 1987), decision on appeal, 53 FR 11600 (Apr. 7, 1988),

ambiguity and selectivity of [a non-Federal] hazardous materials definition are troublesome. State and local hazardous materials definitions and classifications which result in regulation of different materials than the HMR are obstacles to uniformity in transportation regulation and thus are inconsistent with the HMR.

In contrast, however, RSPA has found that a State or locality may regulate hazardous materials in a manner consistent with the HMR even if it does not reach as broadly as the HMR. In IR–18, 52 FR at 202, RSPA found that ''an otherwise consistent requirement will not be found inconsistent merely because it applies only to certain modes of transportation.'' In a similar manner, RSPA has considered numerous challenges to non-Federal requirements that applied to only specific hazardous materials without finding that the specific requirements were preempted because they did not apply to all hazard classes and all materials listed in the Hazardous Materials Table in 49 CFR 172.101.

In these cases, the non-Federal requirements covered such materials as (1) LPG, IR–2, Rhode Island Rules and Regulations Governing the Transportation of Liquefied Natural Gas and Liquefied Propane Gas, 44 FR 75566 (Dec. 20, 1979), decision on appeal, 45 FR 71881 (Oct. 30, 1980); (2) flammable and combustible liquids, PD–4(R), California Requirements Applicable to Cargo Tanks Transporting Flammable and Combustible Liquids, 58 FR 48933 (Sept. 20, 1993), decision on petition for reconsideration, 60 FR 8800 (Feb. 15, 1995); PD–5(R), Massachusetts Requirement for an Audible Back-up Alarm on Bulk Tank Carriers Used to Deliver Flammable Material, 58 FR 62707 (Nov. 29, 1993); and PD–14(R), Houston, Texas, Fire Code Requirements, 63 FR 67506 (Dec. 7, 1998), decision on petition for reconsideration, 64 FR 33949 (June 24, 1999); (3) hazardous wastes, IR–25, Maryland Heights (Missouri) Ordinance Requiring Bond for Vehicles, 54 FR 16308 (Apr. 21, 1989); IR–32, Montevallo, Alabama Ordinance on Hazardous Waste Transportation, 55 FR 36736 (Sept. 6, 1990), appeal dismissed as moot, 57 FR 41165 (Sept. 9, 1992); PD–1(R), Maryland, Massachusetts, and Pennsylvania Bonding Requirements for Vehicles Carrying Hazardous Wastes, 57 FR 58848 (Dec. 11, 1992), decision on petition for reconsideration, 58 FR 32418 (June 9, 1993), reversed on other grounds, *Massachusetts* v. *United States Dep't of Transp.,* 93 F.3d 890 (D.C. Cir. 1996); PD–6(R), Michigan Marking Requirements for Vehicles Transporting Hazardous and Liquid Industrial Wastes, 59 FR 6186 (Feb. 9, 1994); and PD–12(R), New York Department of Environmental Conservation Requirements on the Transfer and Storage of Hazardous Wastes, 60 FR 62527 (Dec. 6, 1995), decision on petition for reconsideration, 62 FR 15970 (Apr. 3, 1997), judicial review dismissed, *New York* v. *United States Dep't of Transp.,* 37 F. Supp. 2d 152 (N.D.N.Y. 1999); and (4) radioactive materials, *e.g.,* IR–7–15, 49 FR 46632 (Nov. 27, 1984); IR–16, above; IR–18, above.

Nassau County's permit requirement in Section 6.7 does not designate any material as hazardous that is not regulated by the HMR, nor does Nassau County describe, define, or classify LPG in a different manner than in the HMR. Accordingly, that requirement is not preempted merely because it applies to those trucks that pick up or deliver LPG, and not other hazardous materials, within Nassau County. There is no necessity that a State or locality always regulate all materials, although a specific non-Federal requirement that applies only to one hazardous material may, indeed, be an obstacle to accomplishing and carrying out Federal hazardous material transportation law or the HMR. *See, e.g.,* IR–15, Vermont Rules for Transportation of Irradiated Reactor Fuel and Nuclear Waste, decision on appeal, 52 FR 13062, 13064 (Apr. 20, 1987), finding that a State may need to justify a decision to ''single out radioactive materials for different types of [traffic] control than hazardous materials generally.''

B. Nature of the Test or Inspection

NYPGA repeatedly states that Nassau County conducts a leak test of the propane tank on the vehicle, and that the Fire Marshal may also conduct a ''walk around'' safety check of the vehicle at the same time. NYPGA indicates that the Fire Marshal also inspects rack trucks that transport LPG cylinders and other service vehicles of propane companies. NYPGA contends that the Fire Marshal is not qualified to conduct the annual testing required under 49 CFR 180.407(c), and that only the New York State Department of Motor Vehicle Regulations is authorized to perform ''an annual truck 'Safety/Emission' inspection.'' As discussed in further detail below, both NYPGA and AWHMT complain that Nassau County does not recognize the inspection conducted by New York State officials, as required by 49 U.S.C. 31142(d). AWHMT also suggests that the purpose of Nassau County's inspection is to ''qualify the vehicle to contain hazardous materials,'' and that RSPA should apply the ''substantively the same as'' standard in 49 U.S.C. 5125(b)(1) to the actual inspection process.

In response, Nassau County states that it does not ''test'' tanks, but only checks ''the accessories, *e.g.,* pipes, fittings, and connections,'' for leaks. The County ''does not certify the tank,'' but rather ''checks to see that the tank has been certified by such an expert.'' Nassau County states that its

inspection includes checking the motor fuel relief valve, head lights, brake lights, turn signals, back-up lights, tires, horn, wipers, inspection stickers, condition of the windshield, defroster, air-brake indicators, registration, and crash bar for roll-over protection.

Nassau County also states that its ''inspections are the same for new trucks and trucks already in service'' but that ''the computer and secretarial work

needed for processing the paperwork for new trucks'' makes the amount of time ''longer for new trucks.'' NYPGA asserts that the County's position in this regard contradicts the County's prior statements that it conducts a ''modified'' inspection of vehicles with less than 1,000 miles.

See 63 FR at 45285.

Cargo tank motor vehicles used to transport LPG must meet DOT specifications MC–330 or MC–331. 49 CFR 173.315(a). Certain requirements for the continued qualification, maintenance, and periodic testing of MC–330 and MC–331 cargo tank motor vehicles are set forth in 49 CFR Part 180, subpart E, beginning at 49 CFR 180.401.[2] The specific tests and inspections are contained in § 180.407, and a cargo tank that successfully passes a specified test or inspection must be marked in accordance with § 180.415. While a person must possess certain qualifications to perform the tests and inspections specified in § 180.407, as set forth in § 180.409, DOT has not established qualifications for non-Federal personnel who inspect cargo tank motor vehicles to determine whether (1) the tank is marked as required in § 180.415, (2) the vehicle otherwise appears to meet the applicable specification, or (3) the vehicle meets the applicable requirements in the Federal Motor Carrier Safety Regulations (FMCSR), 49 CFR Parts 350–399.

As discussed in PD–13(R), DOT encourages States and localities to adopt and enforce requirements that are consistent with the HMR and the FMCSR. 63 FR at 45286. However, DOT does not specify which State or local agencies may enforce such consistent non-Federal requirements, or which personnel within a State or local agency may conduct inspections. That is a matter for State or local discretion, within the boundaries of the governing legal authority. Thus, issues of whether State or local personnel lack authority to enforce a non-Federal requirement should be raised in the appropriate State or local forum—the same as issues related to whether a State or locality is properly interpreting its own requirement. RSPA has recently reiterated that:

> As a general matter, an inconsistent or erroneous interpretation of a non-Federal regulation should be addressed to the appropriate State or local forum, because isolated instances of improper enforcement (*e.g.*, misinterpretation of regulations) do not render such provisions inconsistent with Federal hazardous material transportation law.

PD–15(R), Public Utilities Commission of Ohio Requirements for Cargo Tanks, 64 FR 14965, 14967 (Mar. 29, 1999), decision on petition for reconsideration, 64 FR 44265, 44266 (Aug. 13, 1999), judicial review dismissed, *William E. Comley, Inc.* v. *U.S. Dep't of Transportation,* Civil No. C1–99–880 (S.D. Ohio, June 6, 2000) (citations and internal quotation marks omitted).

The record does not show that a Nassau County's fire inspectors are purporting to certify that a cargo tank motor vehicle has passed the tests and inspections specified in 49 CFR 180.407. Nor is there any indication that a cargo tank motor vehicle that passes all DOT requirements for transporting LPG must meet some additional requirements of Nassau County or will somehow fail to pass Nassau County's inspection. Federal hazardous material transportation law does not preempt inspections designed to enforce local requirements that are consistent with the HMR and the FMCSR, unless those inspections cause an unreasonable delay in the transportation of hazardous material as discussed in the next section. Any issues whether Nassau County's fire inspectors are authorized or qualified to perform their inspections cannot be considered by RSPA in a preemption determination but must be determined in an appropriate State or local forum.

C. Unreasonable Delay

In PD–13(R), RSPA found that NYPGA's original application focused on ''the delay experienced by a propane delivery company in being able to compete or do business in the County—rather than any delay in the transportation of trucks loaded with propane.'' 63 FR at 45285. In its petition for reconsideration, NYPGA asserts that ''Long waits to undergo inspection are typically experienced by regulated parties.'' It cites two specific experiences: (1) An instance where a truck owned by Star-Lite carrying propane cylinders was stopped by the Fire Marshal on June 23, 1998, and delayed for three and a half hours ''waiting for an inspection by the Nassau Fire Marshal'' and (2) a separate ''delay of a tractor transport combination of two [hours] and forty-five minutes while awaiting inspection in Nassau County.'' NYPGA disputes the prior statement of Nassau County that the ''two day a month schedule is flexible and does not apply to new vehicles.'' Id. NYPGA also contends that simply checking that the propane tank has been properly inspected by a registered inspector is a delay and an obstacle to transportation.

With its February 16, 1999 response, NYPGA provided an affidavit by the president of Fort Edward Express Co., Inc., located near Glens Falls, north of Albany. He described his company as ''one of the largest propane transporters in the Northeast'' and stated that, while his company's trucks regularly travel through Nassau County to serve customers in Suffolk County, it does not attempt to serve customers in Nassau County because it ''cannot endure the delays and costs of scheduling our tractors and tank trailers for inspection by the Nassau County Fire Marshall.'' He also stated that his trucks are dispatched ''based on customer need,'' and that ''inspection of all vehicles by Nassau would be impractical, and inspection of only a few would require dedicated vehicles to that county.''

AWHMT argues that all non-Federal periodic (as opposed to roadside or ''spot'') inspections should be preempted. It stated that Congress enacted 49 U.S.C. 31142(d) because it recognized ''the unacceptable burden that would result if states, let alone localities, should require motor vehicles to be produced periodically to be inspected.'' This section provides that a periodic inspection under DOT standards (prescribed under § 31142(b)), an alternative State program approved by DOT, or a State program meeting Commercial Vehicle Safety Alliance standards, ''shall be recognized as adequate in every State for the period of the inspection,'' but that a State may continue to make ''random inspections of commercial motor vehicles.''

According to AWHMT, ''motor vehicles operate over irregular routes and the potential of inflicting 'multiple and conflicting' requirements on carriers is self-evident.'' It also states that an annual inspection requirement is burdensome even if it is not applied to vehicles that travel through the County without stopping to pick up or deliver hazardous materials, because

> what is a ''through'' vehicle one day can be a vehicle used in local delivery the next. The requirement to produce a vehicle for inspection applies whether or not any given vehicle engages in local delivery or pick up one day or 365 days of the permit year. RSPA has to consider the consequences if every locality demanded the production of vehicles for inspection prior to transporting hazardous materials. Hazardous materials transportation, at least by motor vehicle, would indeed become ''local,'' as companies

[2] Under 49 CFR 173.315(k), a nonspecification cargo tank motor vehicle with a capacity of 3,500 gallons or less may be used in intrastate commerce where permitted by State law. However, these nonspecification cargo tank motor vehicles must also be ''inspected, tested, and equipped in accordance with subpart E of part 180'' of the HMR. 49 CFR 173.315(k)(5).

would be unable to produce vehicles, without limitation, for inspection by local authorities prior to transporting such materials.

AWHMT also argues that ''unnecessary delay'' should not be the only standard for determining whether there is an obstacle. It asserts that RSPA should specifically consider effects on commerce, rather than just safety, and refers to a congressional finding that ''the movement of hazardous materials in commerce is necessary and desirable to maintain economic vitality and meet consumer demands, and shall be conducted in a safe and efficient manner.'' Pub. L. 101–615 § 2(8), 104 Stat. 3244 (Nov. 20, 1990).

Nassau County specifically addressed the two instances cited by NYPGA as evidence of delay. The County does not dispute that the Star-Lite truck was stopped because it lacked a current permit sticker. However, the County states that this truck was placed out-of-service because it had a flat tire and the three and one-half hour delay was the time that Star Lite took to inflate the tire.[3] With respect to the time involved in the inspection of the tractor transport, the County states that the vehicle arrived early for its scheduled inspection, before the Fire Marshal's starting time at 8:00 a.m. According to the County, the inspection was completed by 10:00 a.m., and two hours is ''not unreasonable, and does not cause any delay in transportation.'' Nassau County also provided a copy of an internal July 31, 1995 memorandum that any new vehicle (less than 1,000 miles) ''shall be inspected as soon as possible after receiving a request for inspection,'' rather than on the two-day-a-month schedule.

Addressing the June 23, 1998 incident involving the Star Lite truck, NTTC assumes that the vehicle could not be used for 14 days, until it could be inspected on July 7 (the next ''first Tuesday'' of the month). In contrast, Atlantic Bottle Gas states that, when it was cited for delivering propane in a truck with an expired permit on the afternoon of December 8, 1998, the Fire Marshal conducted an inspection at 9:00 a.m. on December 11, 1998, and issued a permit in less than two hours. Atlantic Bottle Gas considers ''not being able to use my truck to make deliveries of propane in the winter * * * some 2 plus days would fall into that category of an unreasonable delay.''

RSPA cannot find that Federal hazardous material transportation law provides a basis for preempting all periodic inspections, as AWHMT contends. The obstacle criterion for preemption in 49 U.S.C. 5125(a)(2) is a different standard for preemption than whether there is a improper burden on interstate commerce. If the two standards were meant to be equivalent, Congress would have said so, and it would not require RSPA to make a finding with regard to the burden on commerce in considering whether to waive preemption, under § 5125(e), or to consider whether a non-Federal fee is ''fair'' or not, under § 5125(g)(1).

To the extent that the preemption provisions in 49 U.S.C. 31142 apply, there is a separate statutory procedure in 49 U.S.C. 31141 for DOT to review and decide whether a State or local law is preempted. Under this procedure, a State or local regulation remains in effect until a Commercial Motor Vehicle Safety Regulatory Review Panel reviews the State or local requirement and DOT acts on the Panel's review. *See Interstate Towing Ass'n* v. *City of Cincinnati*, 6 F.3d 1154, 1160 (6th Cir. 1993), where the Court of Appeals stated that, under the prior version of § 31141, ''the statute allows to remain in force individual state regulations which have not been affirmatively found, by the Secretary or the Panel, to conflict with federal regulations.''[4]

As NTTC specifically recognized in its original comments on NYPGA's application, Nassau County's permit and inspection requirements have a different impact on a carrier that operates entirely within Nassau County, as opposed to a carrier that delivers hazardous materials from outside the County and does not know in advance which vehicle may be needed to deliver LPG in Nassau County. In PD–13(R), 63 FR at 45285–86, RSPA discussed NTTC's comment and the prior decision in PD–4(R) that inspection requirements which cause an ''unnecessary delay'' in the transportation of hazardous materials are preempted because they violate the requirement currently set forth in 49 CFR 177.800(d) that:

> All shipments of hazardous materials must be transported without unnecessary delay, from and including the time of commencement of the loading of the hazardous material until its final unloading at destination.

As explained in PD–4(R), an inspection requirement is preempted when, as applied and enforced, it creates unnecessary delay in the transportation of hazardous material. RSPA discussed whether or not an inspection creates unnecessary delay in three situations.

First, RSPA reaffirmed earlier decisions that ''the minimal increase in travel time when an inspection is actually being conducted, or the vehicle is waiting its 'turn' for an inspector to finish inspecting another vehicle that arrived earlier at the same facility'' is not unnecessary delay. 58 FR at 48941, quoted in PD–13(R) at 63 FR at 45286. *Accord*, IR–17, Illinois Fee on Transportation of Spent Nuclear Fuel, 51 FR 20926 (June 9, 1986), decision on appeal, 52 FR 36200, 36205 (Sept. 25, 1987)(a delay of 1.5 to 2 hours during which a State inspection is actually conducted is reasonable and ''presumptively valid'').

Second, RSPA found that a delay of hours or days waiting for the arrival of an inspector from another location is ''unnecessary, because it substantially increases the time [hazardous materials] are in transportation, increasing exposure to the risks of the hazardous materials without corresponding benefit.'' 58 FR at 48941.

Third, RSPA indicated that a State's annual inspection requirement applied to vehicles or tanks that operate solely within the State is presumptively valid because it would not create the potential for delays ''associated with entering the State or being rerouted around'' the State. 60 FR at 8803, quoted at 63 FR at 45286. A carrier whose vehicles are based within the inspecting jurisdiction should be able to schedule an inspection at a time that does not disrupt or unnecessarily delay deliveries, and such inspections are consistent with the traditional authority of a State or political subdivision to license, inspect, and otherwise regulate a motor vehicle based within its jurisdictional boundaries.

Nassau County has an interest in the safe transportation and delivery of LPG

[3] According to the transcript submitted with NYPGA's September 7, 1999 Addenda, the Nassau County District Court found that Star Lite's truck was the subject of an ''illegal stop,'' and the summons was dismissed. The Fire Marshal's inspector admitted that he did not have evidence that the truck had made deliveries within the County when he stopped the truck. According to its January 19, 1999 response in this proceeding, the County states that because the main route through the County is the Long Island Expressway, it assumes that vehicles on other roads are making a delivery. NYPGA asserts that trucks use roads other than the Long Island Expressway to reach Suffolk County to the east of Nassau County.

[4] In the *Interstate Towing Ass'n* case, the Court of Appeals considered a local licensing requirement for tow trucks based within 25 miles of the city limits, including inspection of each truck, and an $80 licensing fee. Besides finding that the licensing requirement was not preempted by the Motor Carrier Safety Act (now codified at 49 U.S.C. 31131 *et seq.*), the Court also found that the licensing fee did not violate the Commerce Clause because it was ''assessed to help defray the costs of inspecting towing vehicles to ensure that all trucks providing towing services within City limits, Ohio-based and out-of-state-trucks alike, meet certain standards of safety and are equipped sufficiently to provide 'first-class' service.'' 6 F.3d at 1162–63.

within the county limits, and that interest extends to any vehicle operating within the County, whether based within the County or outside. Consistent with the principles set forth in PD–4(R), Nassau County may perform roadside or spot inspections on any vehicle transporting a hazardous material within the County, without causing unreasonable delay, so long as the vehicle is not required to wait hours or days for the arrival of an inspector from another location. There is also no obstacle to the County considering such an inspection valid for a year, and issuing an annual permit based on this spot inspection. On the other hand, the County may not require a company to present its vehicles for an annual scheduled inspection when that will prevent a loaded vehicle from completing its delivery for hours or days waiting for the inspection to be performed.

Those propane delivery companies based within Nassau County should be able to present their trucks for an inspection by Nassau County without incurring an unreasonable delay in the delivery of propane. They should be able to plan and schedule inspections without any interruption of deliveries. The few occasions on which an inspection must be scheduled on short notice, for a new truck placed into service or a ''reserve'' truck placed back in service, must be considered to be part of a company's plan for conducting its business, rather than an unreasonable delay in the transportation of a hazardous material between ''the time of commencement of the loading of the hazardous material until its final loading at destination.'' 49 CFR 177.800(d).

On the other hand, NTTC and Fort Edward Express Co. explain that it is not feasible for a company based outside of Nassau County to predict which of its trucks will be needed to deliver propane to Nassau County within the coming year, nor to have all of its trucks permitted and inspected in any jurisdiction to which any truck might travel. Under the principles announced in PD–4(R), a city or county may apply an annual inspection requirement to trucks based outside its jurisdictional boundaries only if the city or county can actually conduct the equivalent of a ''spot'' inspection upon the truck's arrival within the local jurisdiction. The city or county may not require a permit or inspection for trucks that are not based within the local jurisdiction if the truck must interrupt its transportation of propane for several hours or longer in order for an inspection to be conducted and a permit to be issued.

In this case, Nassau County indicates that there is some flexibility in performing inspections, and that a company need not always wait for one of the two regular inspection days each month. However, the County does not appear to be able to conduct inspections and issue permits ''on demand.'' According to Atlantic Bottle Gas, it took the Fire Marshal until the morning of the third day to schedule an inspection and issue a permit, following issuance of a citation for delivering propane without a permit. Nassau County has not shown that it can act more promptly with respect to a truck that arrives without notice in the County.

Based on the limited information provided in the comments in this proceeding, RSPA finds that Federal hazardous material transportation law does not preempt Nassau County's annual permit requirement in Sections 6.7(A) & (B) of Ordinance No. 344–1979 with respect to trucks that are based within Nassau County. On the other hand, RSPA finds that Nassau County's annual permit requirement creates an obstacle to accomplishing and carrying out the HMR's prohibition against unnecessary delays in the transportation of hazardous material on vehicles based outside of Nassau County, as those requirements are presently applied and enforced. Accordingly, Federal hazardous material transportation law preempts Sections 6.7(A) & (B) of Ordinance No. 344–1979 with respect to trucks that are based outside of Nassau County.

D. Permit Fees

In PD–13(R), RSPA rejected NYPGA's argument that Nassau County's permit fees are a ''flat tax'' and violate the Commerce Clause. 63 FR at 45286–87. RSPA found that the fee appeared to be a user fee, ''related in some measure to the work involved in conducting the required inspection,'' and noted the County's statements that it collects less than $70,000 in LPG permit fees per year and spends much more than that amount on administration of the permit program, incident response, and enforcement.

In its comments on NYPGA's petition for reconsideration, Nassau County maintains its position that its inspection fees are fair and proper. The County states that, in 1998, it ''responded to 113 hazardous materials emergencies on the roadways. The fees generated about $70,000, while the hazmat team alone cost about $1.3 million.'' NYPGA asserts that the County did not provide data relating only to vehicles carrying propane and asked for ''a thorough accounting of how the monies are used.''

In PD–21(R), Tennessee Hazardous Waste Transporter Fee and Reporting Requirements, 64 FR 54474 (Oct. 6, 1999), judicial review pending, *Tennessee* v. *U.S. Dep't of Transportation*, Civil Action No. 3–99–1126 (M.D. Tenn), RSPA discussed the ''fairness'' and ''used for'' standards in 49 U.S.C. 5125(g)(1). RSPA noted that fees that cover the cost of a required inspection ''would be expected to be the same amount for both interstate and intrastate companies'' and have not been found to violate the Commerce Clause. 64 FR at 54478 (discussing the *Interstate Towing Ass'n* case). RSPA also indicated that a State or locality need not ''create and maintain a separate fund for fees paid by hazardous materials transporters'' so long as it could show ''that it is actually spending these fees on the purposes permitted by the law.'' *Id.* at 54479. And while ''only the State [or locality] has the information concerning where these funds are spent,'' *id.,* the amount of detail necessary will depend on all the circumstances.

In this case, the information provided by Nassau County appears sufficient to show that it is using its LPG permit fees for purposes ''related to transporting hazardous material, including enforcement and planning, developing, and maintaining a capability for emergency response.'' 49 U.S.C. 5125(g)(1).

E. Permit Stickers

In PD–13(R), RSPA found that the permit sticker is not a ''marking * * * of hazardous material,'' under 49 U.S.C. 5125(b)(1)(B), because the County did not require the sticker to be placed ''on the hazardous material itself (or its container).'' 63 FR at 45287. There was no evidence that the sticker caused any unnecessary delay or otherwise created an obstacle to accomplishing and carrying out Federal hazardous material law and the HMR. *Id.*

In its petition for reconsideration and further comments, NYPGA repeatedly refers to the permit sticker as a ''label'' and contends that, until it submitted its petition for reconsideration, Nassau County required that the sticker be placed on the cargo tank of a ''transport'' vehicle or on the fender of a ''bobtail.'' Nassau County states that the permit does not indicate that the vehicle is ''actually carrying hazardous materials'' or ''make the vehicle a designated hazardous material vehicle.'' The County also states that the permit is not a label or a placard, as those terms are used in the HMR, and it submitted

a copy of a September 1, 1998 internal memorandum referring to PD–13(R) and advising the Fire Marshal's staff that ''a permit on a transportation vehicle * * * shall *not* be placed on the tank, but shall be placed on the vehicle.''

It is clear that Nassau County's permit sticker is not a ''label'' as that term is used in the HMR, nor could it be mistaken for a hazard class label. *See* 49 CFR Part 172, subpart E. Nor is the sticker a marking of hazardous material within the meaning and intent of the HMR's hazard communication requirements. Nothing in NYPGA's petition for reconsideration or the comments submitted in response to that petition shows that the requirement to place the permit sticker on the vehicle creates an obstacle to accomplishing and carrying out hazardous material transportation law or the HMR.

III. Ruling

Federal hazardous material transportation law preempts the requirement in Sections 6.7(A) and (B) of Ordinance No. 344–1979 for a permit to deliver LPG within Nassau County with respect to trucks that are based outside of Nassau County. As applied to and enforced against those vehicles, that requirement causes unnecessary delays in the transportation of hazardous materials to Nassau County from locations outside of Nassau County and, accordingly, creates an obstacle to accomplishing and carrying out Federal hazardous material transportation law and the HMR.

Nassau County's permit requirement does not create unnecessary delays in the transportation of hazardous materials, and is not preempted, with respect to trucks that are based within Nassau County.

No person requested reconsideration of that part of RSPA's August 25, 1998 determination which found that Federal hazardous material transportation law preempts Section 6.8 of Ordinance No. 344–1979 for a certificate of fitness, insofar as that requirement is applied to a motor vehicle driver who sells or delivers LPG, because Section 6.8 imposes more stringent training requirements than provided in the HMR.

IV. Final Agency Action

In accordance with 49 CFR 107.211(d), this decision constitutes RSPA's final agency action on NYPGA's application for a determination of preemption as to the requirements in Sections 6.7(A) and (B) of Nassau County Ordinance No. 344–1979 for a permit to pick up or deliver LPG within Nassau County. Any party to this proceeding ''may bring a civil action in an appropriate district court of the United States for judicial review of [this] decision * * * not later than 60 days after the decision becomes final.'' 49 U.S.C. 5125(f).

Because no party sought reconsideration of RSPA's determination in PD–13(R) that Federal hazardous material transportation law preempts Section 6.8 of Nassau County Ordinance No. 344–1979 for a certificate of fitness, as applied to motor vehicle drivers, that determination published in the **Federal Register** on August 25, 1998, constituted RSPA's final agency action.

Issued in Washington, D.C. on October 3, 2000.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 00–25953 Filed 10–6–00; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33941]

Pioneer Railcorp and Michigan Southern Railroad Company-Corporate Family Transaction Exemption

Pioneer Railcorp (Pioneer) and Michigan Southern Railroad Company (MSO) have filed a verified notice of exemption.[1] MSO owns 100% of the stock of Michigan Southern Railroad Co., Inc. (MSRR), a nonoperating Class III shortline railroad, which owns a property interest in three segments of railroad currently leased and operated by MSO. The three segments of railroad are described as follows: (1) between milepost 0.0, at Elkhart, IN, and milepost 9.8, at Mishiwaka, IN (Elkhart Segment); (2) between milepost 119.0 and milepost 120.1, at Kendallville, IN (Kendallville Segment); and (3) between milepost 382.5, at or near Coldwater, MI, and milepost 421.2, at or near White Pigeon, MI (Michigan Segment).[2]

The exempt transaction involves the reorganization of the MSO railroad holdings and the creation of two new subsidiaries of MSO: Elkhart & Western Railroad, Co. (E&WR) and Kendallville Terminal Railway Co. (KTR). MSO will assign its operating leases of the Elkhart Segment to E&WR[3] and of the Kendallville Segment to KTR. MSO will continue to operate the Michigan Segment.[4] MSRR will continue to own the three segments of railroad.

The transaction is expected to be consummated on September 29, 2000.

This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). The parties state that the transaction will not result in adverse changes in service levels, significant operational changes, or changes in the competitive balance with carriers outside the corporate family.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to reopen will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33941, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on John D. Heffner, Esq., REA, CROSS & AUCHINCLOSS, 1707 L Street, N.W., Suite 570, Washington, DC 20036.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: September 29, 2000.

[1] Pioneer is a publicly traded shortline railroad holding company and noncarrier that controls 13 Class III shortline railroads, including MSO.

[2] Pioneer and MSO state that MSRR owns part of the Michigan Segment and that MSRR (despite its description as a ''nonoperating'' railroad) ''operates'' the balance of the Michigan Segment under an agreement with a shipper association. According to the verified notice of exemption, the ownership of part or all of the Michigan segment is presently in dispute.

[3] MSO has a haulage agreement with Norfolk Southern Railway Company (NS) from Elkhart to Fort Wayne, IN, which permits MSO to market Fort Wayne as a station on MSO's line. Upon consummation of this transaction, Fort Wayne will become a station of E&WR.

[4] MSO also has a haulage agreement with NS from White Pigeon to Fort Wayne, which permits MSO to market Fort Wayne as a station on MSO's line. Upon consummation of this transaction, Fort Wayne will continue to be a station of MSO.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 00–25954 Filed 10–6–00; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–88 (Sub–No. 10X)]

Bessemer and Lake Erie Railroad Co.—Abandonment Exemption—in Armstrong and Butler Counties, PA

Bessemer and Lake Erie Railroad Company (B&LE) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments and Discontinuances* to abandon and discontinue service over its line of railroad known as the Western Allegheny Branch, extending from Station 1400+80 East to End of Track, at Station 2460+98, in Armstrong and Butler Counties, PA, a distance of 20.1 miles (line). The line traverses United States Postal Service Zip Codes 16025, 16028, 16041, and 16061.

B&LE has certified that: (1) No local traffic has been handled over the line for at least 2 years; (2) no overhead traffic has been handled over the line for at least 2 years; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government agency acting on behalf of such user) regarding cessation of service over the line is either pending with the Surface Transportation Board (Board) or any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on November 9, 2000, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by October 20, 2000. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 30, 2000, with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to applicant's representative: Thomas R. Ogoreuc, Esq., Bessemer and Lake Erie Railroad Company, 135 Jamison Lane, Monroeville, PA 15146. If the verified notice contains false or misleading information, the exemption is void *ab initio.*

B&LE has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by October 16, 2000. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), B&LE shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by B&LE's filing of a notice of consummation by October 10, 2001, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: September 28, 2000.

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 00–25757 Filed 10–6–00; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

Proposed Collection; Comment Request

AGENCY: Financial Crimes Enforcement Network (FinCEN), Treasury.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, FinCEN invites the general public and other Federal agencies to comment on a proposed information collection contained in a new form, ''Registration of Money Services Business.'' The form will be used by check cashers, currency exchangers, money order and traveler's check businesses, and money transmitters to register with the Department of the Treasury as required by statute. This request for comments is being made pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before December 11, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to: Office of Chief Counsel, Financial Crimes Enforcement Network, Department of the Treasury, Suite 200, 2070 Chain Bridge Road, Vienna, VA 22182–2536, *Attention:* PRA Comments—Registration of Money Services Business. Comments also may be submitted by electronic mail to the following Internet address: ''regcomments@fincen.treas.gov'' with the caption in the body of the text, ''*Attention:* PRA Comments—Registration of Money Services Business.''

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Eileen Mayer, Special Assistant to the Director, (202) 354–6400, or Cynthia Clark, Deputy Chief Counsel, FinCEN, and Christine Schuetz, Attorney-Advisor, FinCEN, at 703–905–3590. A copy of the form may be obtained through the Internet at http://www.treas.gov/fincen.

SUPPLEMENTARY INFORMATION:

Title: Registration of Money Services Business.

OMB Number: Unassigned.

Form Number: TD F 90–22.55.

Abstract: 31 U.S.C. 5330, a part of the Bank Secrecy Act,[1] requires money services businesses to register with the Department of the Treasury and maintain a list of their agents.[2] Money services businesses include certain (i) check cashers, (ii) currency exchangers, (iii) issuers, sellers, and redeemers of money orders, (iv) issuers, sellers, and redeemers of traveler's checks, and (v) money transmitters. *See* 31 CFR 103.11(uu).

On August 20, 1999, the Department of the Treasury issued a final rule regarding the registration of money services businesses (64 FR 4538). Under the final rule, money services businesses must register with the Department of the Treasury and renew their registration every two years. 31 CFR 103.41. Registration will be made by filing a new form TD F 90–22.55, Registration of Money Services Business. Agents of money services businesses are not required to register regardless of the dollar volume of their money services activities unless they engage in money service activities both on their own behalf and as an agent of others.

The information collected on the new form is required to comply with 31 U.S.C. 5330 and its implementing regulations. The information will be used to assist supervisory and law enforcement agencies in the enforcement of criminal, tax, and regulatory laws and to prevent money services businesses from use by those engaging in money laundering. The collection of information is mandatory.

Money services businesses are advised that the draft form that appears at the end of this notice is presented only for purposes of soliciting public comment on the form. They should not try to use the draft form to register with Treasury. A final version of the form will be made available at a later date to be used for registration.

Type of Review: New information collection.

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 8500.

Estimated Total Annual Responses: 8500.[3]

Estimated Total Annual Burden Hours: Reporting average of 30 minutes per response; recordkeeping average of 15 minutes per response. Estimated total annual burden hours: Reporting burden of 4250 hours; recordkeeping burden of 2125 hours, for an estimated combined total of 6375 hours.[4]

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Records required to be retained under the Bank Secrecy Act must be retained for five years. Generally, information collected pursuant to the Bank Secrecy Act is confidential, but may be shared as provided by law with regulatory and law enforcement authorities.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information.

Dated: September 29, 2000.

James F. Sloan,

Director, Financial Crimes Enforcement Network.

Attachment: Registration of Money Services Business Form TD F 90–22.55

BILLING CODE 4820–03–P

[1] The Bank Secrecy Act, Titles I and II of Pub. L. 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5330, authorizes the Secretary of the Treasury, *inter alia*, to issue regulations requiring records and reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters. Regulations implementing Title II of the Bank Secrecy Act (codified at 31 U.S.C. 5311–5330) appear at 31 CFR part 103. The authority of the Secretary to administer Title II of the Bank Secrecy Act has been delegated to the Director of FinCEN.

[2] Section 5330 was added to the Bank Secrecy Act by section 408 of the Money Laundering Suppression Act of 1994, Title IV of the Riegle Community Development and Regulatory Improvement Act of 1994, Public Law 103–325 (September 23, 1994).

[3] The estimated number of responses is for the year in which a registration form must be filed; because the form is generally required to be filed only every other year, the estimated annual number of responses would be lower.

[4] The estimated burden is for the year in which a registration form must be filed; because the form is generally required to be filed only every other year, the estimated annual burden would be lower.

Department of the Treasury
TD F 90-22.55
Issued Xxx 2001
OMB No.1506-00xx

Registration of Money Services Business

Do not write in this space.

1 Date of Filing
M M D D Y Y Y Y

2 Type of Filing
a ☐ Initial Registration
b ☐ 2 Year Update
c ☐ Corrects Prior Filing

d ☐ Refiling because: check all that apply [see instructions]
1 ☐ re-registered under state law
2 ☐ more than 10 percent transfer of equity interest
3 ☐ more than 50 percent increase in agents

Part I Registrant Information

3 Organization Name

4 Doing Business As

5 Address (Number, Street, and Apt. or Suite No.)

6 Taxpayer Identification Number

7 City

8 State

9 Zip Code

10 Telephone Number (include area code)
( ) —

Part II Owner or Controlling Person Information

11 Last Name

12 First Name

13 Middle Name

14 Address (Number, Street, and Apt. or Suite No.)

15 Telephone Number - (include area code)
( ) —

16 City

17 State

18 Zip Code
—

19 Country

20 Date of Birth
M M D D Y Y Y Y

21 Social Security Number

22 Additional identification for Owner or Controlling Person (Provide at least one)

a ☐ Driver's Lic./State ID b ☐ Passport c ☐ Alien Registration d ☐ Other

e Number

f Issuer of Identification

Part III Money Services Information

23 Where services are offered: Check as many as apply. **a** ☐ All States and Territories **b** ☐ All States

☐ Alabama (AL)	☐ Idaho (ID)	☐ Montana (MT)	☐ Puerto Rico (PR)
☐ Alaska (AK)	☐ Illinois (IL)	☐ Nebraska (NE)	☐ Rhode Island (RI)
☐ American Samoa (AS)	☐ Indiana (IN)	☐ Nevada (NV)	☐ South Carolina (SC)
☐ Arizona (AZ)	☐ Iowa (IO)	☐ New Hampshire (NH)	☐ South Dakota (SD)
☐ Arkansas (AR)	☐ Kansas (KS)	☐ New Jersey (NJ)	☐ Tennessee (TN)
☐ California (CA)	☐ Kentucky (KY)	☐ New Mexico (NM)	☐ Texas (TX)
☐ Colorado (CO)	☐ Louisiana (LA)	☐ New York (NY)	☐ Utah (UT)
☐ Connecticut (CT)	☐ Maine (ME)	☐ North Carolina (NC)	☐ Vermont (VT)
☐ Delaware (DE)	☐ Maryland (MD)	☐ North Dakota (ND)	☐ Virgin Islands (VI)
☐ District of Columbia (DC)	☐ Massachusetts (MA)	☐ Northern Mariana Islands (MP)	☐ Virginia (VA)
☐ Florida (FL)	☐ Michigan (MI)	☐ Ohio (OH)	☐ Washington (WA)
☐ Georgia (GA)	☐ Minnesota (MN)	☐ Oklahoma (OK)	☐ West Virginia (WV)
☐ Guam (GU)	☐ Mississippi (MS)	☐ Oregon (OR)	☐ Wisconsin (WI)
☐ Hawaii (HI)	☐ Missouri (MO)	☐ Pennsylvania (PA)	☐ Wyoming (WY)

24 Number of Agents

25 Is this a mobile operation?
a ☐ Yes b ☐ No

26 Services Offered:
Check as many as apply.
a ☐ Travelers Checks issue
b ☐ Travelers Checks sales and/or redemption
c ☐ Money Orders issue
d ☐ Money Orders sales and/or redemption
e ☐ Currency Exchange
f ☐ Check Cashing
g ☐ Money Transmission

27 Do you also offer stored value products?
a ☐ Yes b ☐ No

Paperwork Reduction Act. The estimated average burden associated with this collection of information is 45 minutes per respondent or recordkeeper, depending on individual circumstances. Comments regarding the accuracy of this burden estimate, and suggestions for reducing the burden should be directed to the Paperwork Reduction Act; Department of the Treasury, Financial Crimes Enforcement Network, Suite 200, 2070 Chain Bridge Road, Vienna, VA 22182-2536. You are not required to provide the requested information unless a form displays a valid OMB control number.

28 Name of bank or other depository institution where primary transaction account for Money Services Business activities is held 2

29 Bank address (Number, Street, and Suite No.)

30 City	31 State	32 Zip Code	33 Primary Transaction Account number at bank
		—	

Part IV Location of Supporting Documentation

If kept at the U.S. location reported in Part I, check here, ☐ and leave the rest of this part blank.

34 Address (Number, Street, and Apt. or Suite No.)

35 City	36 State	37 Zip Code
		—

Part V Authorized Signature

38 I am authorized to file this form on behalf of the money services business listed in Part I. I declare that the information provided is true, correct and complete, and I understand that the registered money services business listed in Part I is subject to the Bank Secrecy Act and its implementing regulations. See 31 CFR Part 103. The registered money services business maintains a current list of all agents, an estimate of its business volume in the coming year, and all other information required to comply with 31 U.S.C. 5330 and the regulations thereunder.

Sign Here ➤ _____ _____

Print Name of Owner or Controlling Person — Signature of Owner of Controlling Person

39 Date Signed	40 Title of signer
M M D D Y Y Y Y	

PRIVACY ACT NOTIFICATION

Pursuant to the requirements of Public Law 93-579 (Privacy Act of 1974), notice is hereby given that, in accordance with 5 U.S.C. 552a(e), the authority to collect information on TD F 90-22.55 is Public Law 103-305; 31 USC 5330; 5 USC 301; 31 CFR 103.

The principal purpose for collecting the information is to assure maintenance of reports or records where such reports or records have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings. The information collected may be provided to those officers and employees of any constituent unit of the Department of the Treasury who have a need for the records in the performance of their duties. The records may be referred to any other department or agency of the United States, to any State, or Tribal Government, or part thereof, upon the request of the head of such department or agency, or authorized State or Tribal Government official for use in a criminal, tax, or regulatory investigation or proceeding, and to foreign governments in accordance with an agreement, or a treaty. Disclosure of this information is mandatory. Civil and criminal penalties, including in certain circumstances a fine of not more than $5,000 per day and imprisonment of not more than five years, are provided for failure to file the form, supply information requested by the form, and for filing a false or fraudulent form. Disclosure of the Social Security or Taxpayer Identification Number is mandatory. The authority to collect is 31 CFR 103. The Social Security Number/Taxpayer Identification Number will be used as a means to identify the individual or entity who files the report.

General Instructions

All fields must be completed in their entirety.

When to File

Initial Registration: **Item 2a.** File the form by December 31, 2001 or within 180 days after the business begins operations, whichever is later.

2-Year Update: **Item 2b.** File the form not later than December 31 of the second calendar year in each two year registration period. See 31 CFR 103.41(b)(2).

Corrects Prior Filing: **Item 2c.** File this form to correct a prior report. Complete Part I in its entirety and only those other entries that are being amended. Staple a copy of the prior report (or the acknowledgement from DCC if received) to the corrected report.

Refiling: **Item 2d.** Refile the form if:

1 there has been a change in ownership requiring re-registration under state registration law;

2 more than 10 percent of voting power or equity interest has been transferred (except certain publicly-traded companies);

3 or the number of agents has increased by more than 50 percent.

See 31 CFR 103.41(b)(4).

Who should file:

Each money services business, except one that is a money services business solely because it serves as an agent of another money services business, must register. Money services businesses include:

- money transmitters;
- currency exchangers (except those who do not exchange more than $1,000 for any one customer on any day);
- check cashers (except those who do not cash checks totaling more than $1,000 for any one customer on any day);
- issuers of traveler's checks or money orders (except those who do not issue more than $1,000 in traveler's checks or money orders for any one customer on any day);
- sellers or redeemers of traveler's checks or money orders (except for those who do not sell or redeem more than $1,000 in traveler's checks or money orders for any one customer on any day).

See 31 CFR 103.11(n)(uu).

Excluded from the registration requirement are the United States Postal Service, any agency of the United States, of any state or of any political subdivision of any state. At this time, persons are not required to register to the extent that they issue, sell or redeem stored value. If, however, a money services business provides money services in addition to stored value, the provision of stored value services does not relieve it of the responsibility to register, if required, as a provider of those other services.

Where to file: Send this completed form to:

IRS Detroit Computing Center
Attn: Money Services Business Registration
P.O. Box _____
Detroit, MI _____

Keep a copy of this registration form.

Estimate of Business Volume:

The law requires a money services business to estimate the volume of its business in the coming year. 31 U.S.C. 5530(b). That estimate must be prepared annually. The estimate is not reported on this form, but must be maintained in the files of the money services business for access upon request of an appropriate law enforcement or regulatory entity.

Supporting Documentation:

A money services business must retain certain information in support of this registration form at a location within the United States, preferably at the address reported in Part I. That information includes: a copy of the registration form, the registration number assigned to the business by the Detroit Computing Center and, as indicated above, an estimate of the volume of its business in the coming year.

In addition, a money services business must retain as supporting documentation the following information with regard to the ownership or control of the business: the name and address of any shareholder holding more than 5%; any general partner; any trustee; and/or any director or officer of the business.

Agent Lists:

A money services business that has agents must prepare and maintain a listing of its agents. That list must be updated annually and retained by the business at the location within the United States reported on the registration form in Part IV. IT SHOULD NOT BE FORWARDED WITH THE REGISTRATION FORM. The list must include:

- each agent's name;
- each agent's address;
- each agent's telephone number;
- the type of service(s) provided by each agent;
- a listing of the months in the immediately preceding 12 months in which gross transaction amount of each agent with respect to financial products/services issued by the business maintaining the list exceeds $100,000;
- the name and address of any depository institution at which each agent maintains a transaction account for the money services in Item 26 conducted by the agent on behalf of the money services business in Part I;
- the year in which each agent first became an agent of the business; and
- the number of branches or subagents each agent has.

See 31 CFR 103.41(d)(2).

Specific Instructions

Part I. Registrant Information

Items 3 and 4. Organization Name and Doing Business As. -- Enter the name of the organization and, if applicable, the Doing Business As name. For example, Good Hope Enterprises, Inc. DBA Joe's Check Cashing.

Items 5, 7, 8 and 9. Address. -- Enter the permanent street address, including zip code of the registering business. Use the Post Office's two-letter state abbreviation code. A P.O. Box address may only be used if there is no street address.

Part II: Owner or Controlling Person Information

Any person who owns or controls a money services business shares the responsibility for seeing that the business is registered. Only one registration form is required for any business in any registration period. If more than one person owns or controls the business, they may enter into an agreement designating one of them to register the business. That person must complete Part II and provide the requested information. In addition, that person must sign and date the form. Failure by the designated person to register the business does not relieve any of the other persons who own or control the business of the liability for failure to register the business.

An "owner or controlling person" includes the following:
Sole Proprietorships -- the owner of the business;
Partnerships -- a general partner;
Corporations -- a corporate officer;
Trusts -- a trustee.

Part III. Money Services Information

Item 23. Where services are offered. -- Mark the box(es) for any state or territory in which the money services business offers services. If a service is offered on tribal lands, mark the box for the state in which the tribal lands are located.

Item 25. Mobile Operation. -- If any part of your business is a mobile operation, check yes here. A mobile operation is one based in a vehicle, for example, a check cashing service offered from a truck.

Item 28, 29, 30, 31, 32 and 33. Name, Address, and Account Number of Primary Transaction Account. – Enter the name and address of the bank or other depository institution where the money services business has its primary transaction account (e.g., the primary checking account) for the funds received in or for the financial products or services of the money services business. A transaction account is defined in 12 U.S.C. 461(b)(1)(c).

[FR Doc. 00–25950 Filed 10–6–00; 8:45 am]
BILLING CODE 4820–03–C

DEPARTMENT OF THE TREASURY

Departmental Offices; Debt Management Advisory Committee Meeting

Notice is hereby given, pursuant to 5 U.S.C. App. 10(a)(2), that a meeting will be held at the U.S. Treasury Department, 15th and Pennsylvania Avenue, NW., Washington, DC, on October 31, 2000, of the following debt management advisory committee:

The Bond Market Association Treasury Borrowing Advisory Committee

The agenda for the meeting provides for a technical background briefing by Treasury staff, followed by a charge by the Secretary of the Treasury or his designate that the Committee discuss particular issues, and a working session. Following the working session, the Committee will present a written report of its recommendations.

The background briefing by Treasury staff will be held at 8 a.m. Eastern time and will be opened to the public. The remaining sessions and the committee's reporting session will be closed to the public, pursuant to 5 U.S.C. App. 10(d).

This notice shall constitute my determination, pursuant to the authority placed in heads of departments by 5 U.S.C. App. 10(d) and vested in me by Treasury Department Order No. 101–05, that the closed portions of the meeting are concerned with information that is exempt from disclosure under 5 U.S.C. 552b(c)(9)(A). The public interest requires that such meetings be closed to the public because the Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community. When so utilized, such a committee is recognized to be an advisory committee under 5 U.S.C. App. 3.

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of the advisory committee, premature disclosure of the committee's deliberations and reports would be likely to lead to significant financial speculation in the securities market. Thus, these meetings fall within the exemption covered by 5 U.S.C. 552b(c)(9)(A).

The Office of Financial Markets is responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of committee activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. 552b.

Dated: October 3, 2000.

Lee Sachs,

Assistant Secretary, Financial Markets.

[FR Doc. 00–25905 Filed 10–6–00; 8:45 am]
BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Financial Management Service; Proposed Collection of Information; Claim Against the United States for the Proceeds of a Government Check

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Financial Management Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection. By this notice, the Financial Management Service solicits comments concerning form FMS–1133, ''Claim Against the United States for the Proceeds of a Government Check.''

DATES: Written comments should be received on or before December 11, 2000.

ADDRESSES: Direct all written comments to Financial Management Service, 3700 East West Highway, Programs Branch, Room 133, Hyattsville, Maryland 20782.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Pamela Locks, Director, Financial Processing Division, Room 725D, 3700 East West Highway, Hyattsville, Maryland 20782, (202) 874–7620.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995, (44 U.S.C. 3506(c)(2)(A)), the Financial Management Service solicits comments on the collection of information described below.

Title: Management of Federal Agency Disbursements.

OMB Number: 1510–0019.

Form Number: FMS–1133.

Abstract: This form is used to collect information needed to process an individual's claim for non-receipt of proceeds from a government check. Once the information is analyzed a determination is made and a recommendation is submitted to the program agency to either settle or deny the claim.

Current Actions: Extension of currently approved collection.

Type of Review: Regular.

Affected Public: Individuals or households.

Estimated Number of Respondents: 98,500.

Estimated Time Per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 18,695.

Comments: Comments submitted in response to this notice will be summarized and/or included in the request of Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information.

Dated: October 2, 2000.

Judith R. Tillman,

Assistant Commissioner, Financial Operations.

[FR Doc. 00–25894 Filed 10–6–00; 8:45 am]
BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

October 4, 2000.

The Office of Thrift Supervision (OTS) has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Interested persons may obtain copies of the submission(s) by calling the OTS Clearance Officer listed. Send comments regarding this information collection to

the OMB reviewer listed and to the OTS Clearance Officer, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

DATES: Submit written comments on or before November 9, 2000.

OMB Number: 1550–0077.

Form Number: OTS Form 1579.

Type of Review: Regular review.

Title: Operating Subsidiary.

Description: 12 CFR Part 559 requires a savings association proposing to establish or acquire an operating subsidiary or conduct new activities in an existing operating subsidiary to either notify the OTS or obtain the prior approval of the OTS. The regulation also requires a savings association to create and maintain certain documents.

Respondents: Savings and Loan Associations and Savings Banks.

Estimated Number of Responses: 139.

Estimated Burden Hours Per Response: 10 hours.

Frequency of Response: Once per year.

Estimated Total Reporting Burden: 1,390 hours.

Clearance Officer: Ralph E. Maxwell, (202) 906–7740, Office of Thrift Supervision, 1700 Street, NW., Washington, DC 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

John E. Werner,

Director, Information & Management Services.

[FR Doc. 00–25940 Filed 10–6–00; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

October 4, 2000.

The Office of Thrift Supervision (OTS) has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Interested persons may obtain copies of the submission(s) by calling the OTS Clearance Officer listed. Send comments regarding this information collection to the OMB reviewer listed and to the OTS Clearance Officer, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

DATES: Submit written comments on or before November 9, 2000.

OMB Number: 1550–0063.

Form Number: OTS Form 1564.

Type of Review: Regular review.

Title: Activities of Savings and Loan Holding Companies.

Description: 12 CFR Part 584.2–1 required prior notification to the OTS by savings and loan holding companies proposing to engage in prescribed services and activities. The OTS uses this information to track activities and decide the advisability of other actions.

Respondents: Savings and Loan Associations and Savings Banks.

Estimated Number of Responses: 2.

Estimated Burden Hours Per Response: 2 hours.

Frequency of Response: Once per year.

Estimated Total Reporting Burden: 4 hours.

Clearance Officer: Ralph E. Maxwell, (202) 906–7740, Office of Thrift Supervision, 1700 Street, NW, Washington, DC 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, D.C. 20503.

John E. Werner,

Director, Information & Management Services.

[FR Doc. 00–25941 Filed 10–6–00; 8:45 am]

BILLING CODE 6720–01–P

Corrections

Federal Register

Vol. 65, No. 196

Tuesday, October 10, 2000

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 73

[Docket No. 97C–0415]

Listing of Color Additives Exempt From Certification; Luminescent Zinc Sulfide

Correction

In rule document 00–19952, beginning on page 48375, in the issue of Tuesday, August 8, 2000, make the following correction:

On page 48375, in the third column, under the heading, **FOR FURTHER INFORMATION CONTACT:**, in the first line, ''Aydin Θ—AE4rstan'' should read ''Aydin Orstan''.

[FR Doc. C0–19952 Filed 10–6–00; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Tuesday,
October 10, 2000

Part II

Small Business Administration

13 CFR Part 119
PRIME Act Grants; Proposed Rule

SMALL BUSINESS ADMINISTRATION

13 CFR Part 119

PRIME Act Grants

AGENCY: Small Business Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The U.S. Small Business Administration is proposing regulations to add new regulations to set up the Program for Investment in Microentrepreneurs Act (''PRIME'' or ''the Act''), created by Title VII of the Gramm-Leach-Bliley Act, enacted November 12, 1999. The proposed regulation sets forth the Act's grant requirements for qualified Microenterprise Development Organizations (''MDOs'') to: train and provide technical assistance to disadvantaged microentrepreneurs; build MDO's capacity to give disadvantaged microentrepreneurs such training and technical assistance; research and develop best practices for training and technical assistance programs for disadvantaged microentrepreneurs, and perform such other activities as the Administrator or designee determines are consistent with the Act.

PRIME grants will enable MDOs to reach more disadvantaged microentrepreneurs with training and technical assistance, which will make a difference in their ability to start, grow, and sustain microenterprises in economically distressed, high unemployment areas. SBA will award a minimum of 75 percent of available funds to MDOs to use for training and technical assistance to disadvantaged microentrepreneurs. At a minimum, another 15 percent will be used to build MDOs' capacity to give more training and technical assistance. SBA will use the remaining funds to make grants for research and development on best practices or other purposes to improve MDOs' services to PRIME's ultimate beneficiaries—disadvantaged microentrepreneurs.

DATES: Submit comments on or before November 9, 2000.

ADDRESSES: Written comments should be sent to Jane Palsgrove Butler, Associate Administrator, Microenterprise Development Branch, Office of Financial Assistance (OFA), U.S. Small Business Administration, 409 3rd Street, SW, Washington, DC 20416, 202–205–6497.

FOR FURTHER INFORMATION CONTACT: Jody Raskind, Chief, Microenterprise Development Branch, 202–205–6485.

SUPPLEMENTARY INFORMATION: Congress recognized that many disadvantaged microentrepreneurs lack sufficient training and education to gain access to capital and to conduct other activities necessary to establish, maintain, and expand their businesses. It enacted the Program for Investment in Microentrepreneurs Act (''PRIME'' or ''the Act'') to augment training and technical assistance under the Small Business Act and other legislation. PRIME grants to qualified Microenterprise Development Organizations (MDOs) will help meet training and technical assistance needs for disadvantaged microentrepreneurs, thereby encouraging entrepreneurship and capital formation at the community level.

The Congressional mandate to provide cognitive support to the target market through the Act is recognition that many low income and very low-income entrepreneurs need training and technical assistance to start, operate, strengthen, or expand their businesses. In order to achieve measurable success, technical assistance providers must be accessible, consistent and committed to the entrepreneur's progress over extended periods of time. The competency and capacity of these providers must also be measured. Research into the outcomes of support, its long-term effect, and how best to continue assistance is essential in determining the value of support over the long run.

The U.S. Department of Commerce's Characteristics of Business Ownership shows that in 1987, approximately 17 percent (2.3 million) of businesses in the United States were operated by low-income and very low-income microentrepreneurs. Since then a variety of economic developments, including corporate downsizing, declining availability of lower skilled manufacturing jobs and expanded opportunities in the technology field, have combined to make microenterprise an increasingly more viable option in the U.S. economy.

The Aspen Institute estimated that during 1997 microlenders nationwide provided business assistance to 172,000 microentrepreneurs, a mere fraction of low-and very-low income individuals involved in microenterprise. The Institute further estimated that of that number, about 57,000 actively pursued and benefited from sustained business-based training and technical assistance. Of those, approximately 6,000 received loans.

One of the major constraints is the cost of providing this training and technical assistance. Current private sector sources simply are not meeting the need. The Act, therefore, focuses on expanding the cultivation, support and motivation of these low- and very-low income microentrepreneurs. It will also help build the capacity of the microenterprise industry in order to deliver vital services to a much greater segment of the 2.3 million or more low income and very low income microentrepreneurs. One of the goals of the PRIME program is to be a resource for MDOs as they grow and develop and ultimately become self-sustaining.

The Act authorizes SBA to make grants to ''qualified organizations'' to fund training and technical assistance for disadvantaged microentrepreneurs. It also authorizes SBA to make grants to increase the training and technical assistance capacities of MDOs. Further, it provides funding for grants for research and development, and other undertakings deemed by the Administrator or designee to be consistent with the purposes of the Act. The PRIME program requires that grants made by SBA be matched by grantees from non-Federal sources. The proposed regulations set up four categories of technical assistance grants targeted to these purposes.

Grants made either for the purpose of providing technical assistance to disadvantaged microentrepreneurs or for capacity building purposes initially will be awarded, on a competitive basis, in amounts not less than $50,000. Such grants may be renewable, annually, for up to 4 additional years. Renewal of an existing grant will take place at the discretion of the SBA and will be based on the availability of funds, continued legislative authorization, and the individual grantee's performance in terms of goals met, milestones achieved, and demonstrated results.

Grants for research and development will also be awarded on a competitive basis, though not subject to the $50,000 minimum award. These grants may also be renewed based on the appropriateness of extended funding periods, availability of funds, continued legislative authorization and appropriation and performance.

PRIME will be implemented with a clear focus on the applicants' abilities to meet the purposes of the Act. Accountability and outcomes will be an ongoing consideration during the grant period. Applicants for funding for technical assistance to disadvantaged microentrepreneurs will be evaluated based on such items as technical capabilities; market penetration potential; ability to meet stated goals; historical performance; key personnel; resource management; community partnering and collaboration with state and local entities; accountability for

outcomes; program sustainability; and replicability of program design. Applicants for funding as capacity builders will be similarly evaluated. Continued performance of these two groups will be measured in terms of such items as number of clients served; range and quality of service; number of businesses started, stabilized, expanded, and/or funded; number of jobs created; business survival rates; capital formation; and non-business outcomes such as wage employment.

SBA is inviting public comment on how the agency intends to fulfill the purposes of the Act. SBA intends to award PRIME grants so that they reach MDOs that most clearly serve, have the potential to serve, or can best improve services to those microentrepreneurs with the greatest need for business-based training and technical assistance.

Section by Section Analysis

The following is a section by section analysis of each provision of SBA's proposed regulations to implement the Act.

Section 119.1 of Part 119 states the purpose of PRIME—to make grants to qualified MDOs to provide training and technical assistance to disadvantaged microentrepreneurs; to build MDO's service provider capacities; to pursue research and development in the field of microenterprise development; and for other purposes deemed by the Administrator or designee to be consistent with the Act.

Section 119.2 sets forth definitions found in the Act, and further defines terms not included in the Act. The following terms were either not included or were not fully defined in the Act:
Capacity Building Grant in § 119.2(a); *developer* in § 119.2(d); *disadvantaged entrepreneur* or *disadvantaged microentrepreneur* in § 119.2(e); *Discretionary Grant* in § 119.2(f); *economically disadvantaged entrepreneur* or *economically disadvantaged microentrepreneur* in § 119.2(g); *emerging microenterprise development organization* or *program* in § 119.2(h); *grantee* in § 119.2(i); *group* in § 119.2(j); *large* and *small microenterprise development organization* or *program* in §§ 119.2(n) *and (v); local community* in § 119.2(o); *qualified organization* in § 119.2(s); *Research* and *Development Grant* in § 119.2(t); *severe constraints on available sources of matching funds* in § 119.2(u); *Technical Assistance Grant* in § 119.2(w).

In defining these terms, SBA considered the policy objectives of the Act and how the definitions proposed will further the intent of Congress to ensure that PRIME grants reach its intended audience.

SBA proposes a definition of *Indian tribe jurisdiction* in § 119.2(l) consistent with other Federal laws extending Federal assistance to Indian country.

Section 119.3 lists organizations eligible to apply for PRIME grants:

(1) non-profit MDOs or groups of MDOs with demonstrated records of delivering microenterprise services to disadvantaged entrepreneurs;

(2) a private, non-profit entity serving or seeking to serve other qualified organizations;

(3) MDOs or programs accountable to local communities and working with State, local or tribal governments; and

(4) an Indian tribe acting on its own behalf, if no private organization or program as defined in the Act exists within its jurisdiction.

Section 119.4 lists the uses for PRIME grants permitted by the Act:

(1) training and technical assistance for disadvantaged microentrepreneurs;

(2) capacity building services for MDOs;

(3) research and development on best practices in microenterprise; and

(4) other activities not covered by the first three categories and deemed by the Administrator or designee to be consistent with the Act's purposes.

Section 119.5 states the Act's parameters for allocating PRIME grants and their apportionment among the permitted uses of PRIME funds. 50 percent of the number of the grants will be awarded to qualified MDOs assisting very low-income persons, including those on Indian reservations. The categorical allocation of PRIME grants will be:

(1) at least 75 percent to MDOs providing training and technical assistance to disadvantaged microentrepreneurs;

(2) at least 15 percent to organizations providing training and capacity building services to MDOs; and

(3) the remainder to be divided between research and development and for other purposes as the Administrator or designee deems consistent with the Act.

Section 119.6 states awards will be not less than $50,000 for training and technical assistance and capacity building. Although the Act sets no minimum, SBA decided that a certain minimum sum is needed for MDOs to carry out effective training and technical assistance and capacity building to further the purposes of the Act. The Act limits the maximum sum a single MDO may receive in one fiscal year to $250,000 or 10% of PRIME funds available in that fiscal year, whichever is less.

Section 119.7 states that subject to availability of funds and continuing authorization of PRIME, awards will be made to grantees on an annual basis, and will allow for the initial grant plus up to 4 option years, for a total of 5 years. After the initial grant, grant awards for following option years will be in declining amounts, declining by 20 percent of the initial grant amount in each successive year.

Section 119.8 requires a 50 percent match for PRIME grants. It states what resources a grantee may use to fulfill them and the circumstances in which SBA may reduce or eliminate the match requirement. It sets a 10 percent limit on exemptions that may be made in a single fiscal year.

For example, combining the requirements of §§ 119.7 and 119.8, if a grantee receives an initial grant of $100,000, the grantee will receive $80,000 in the first option year, $60,000 in the second option year, $40,000 in the third option year, and $20,000 in the fourth option year. The grantee will be subject to a 50 percent match for each year—$50,000 for initial year, $40,000 for first option year, $30,000 for second option year, $20,000 for third option year, and $10,000 for fourth option year.

Section 119.9 states that SBA will issue Programs Announcements seeking PRIME grant applications. SBA believes a competitive process will allow a greater number of varied, diverse proposals that will accomplish the goals of the Act.

Section 119.10 restates the Act's requirement that SBA not prefer SBA Microloan Program participants under § 7(m) of the Small Business Act over non-participants or former participants in that program. Congress intended PRIME grants to help MDOs serve a greater number of disadvantaged entrepreneurs than currently receive assistance. Though Microloan participants and former participants will still be eligible, avoiding a preference for them will enable SBA to broaden opportunities for training and technical assistance, rather than duplicating existing programs.

Section 119.11 sets forth information that will be requested in an application for funding under PRIME, based on the 4 categories of PRIME grants described in § 119.4.

Section 119.12 explains factors that will affect grant application consideration. To further the Act's goals to assist disadvantaged microentrepreneurs most in need of training and technical assistance, SBA will initially give special consideration

to organizations located in and serving areas of, or with a history of successful outreach to, low-income and very low-income persons. SBA believes this approach will further the goals of the Act by directing grant funds to those microentrepreneurs who are at the greatest disadvantage.

Section 119.13 explains how grantees may make subgrants from PRIME awards. Subgrants will enable more MDOs to provide training and capacity building, and will enable them to expand the technical assistance network available to disadvantaged entrepreneurs. To make sure that funds are used to carry out purposes of the Act, SBA is requiring grantees to obtain its prior approval for subgrantees. The Act limits how much grantees may use for administrative expenses related to making subgrants.

Section 119.14 sets forth limitations on use of program income.

Section 119.15 explains carryover procedures from one fiscal year to the next or unexpended Federal funds.

Section 119.16 advises the public about SBA reporting, record keeping, and related requirements. Congress stated its intent for qualified organizations to maintain records as the Riegle Community Development Act of 1994 (''Riegle Act'') requires of community development financial institutions under 12 U.S.C. § 4714. SBA will include the details of such requirements in its Program Announcements.

Section 119.17 advises the public about SBA oversight functions, including additional reporting requirements in accordance with applicable OMB circulars.

Section 119.18 sets forth restrictions against lobbying.

Section 119.19 explains that fundraising costs are not allowable expenditures of grant funds under the Act.

Section 119.20 explains process for grantees and subgrantees to raise conflict of interest matters with SBA.

Appendix A of this rule contains the Program Announcements SBA proposes to issue to potential applicants. SBA chose to draft three separate Program Announcements, one for each of the first three grant categories identified in § 119.4. The Program Announcements (and their appendices) include such items as the purpose and overview of the PRIME Program, program eligibility and evaluation criteria, application requirements and instructions, reporting and recordkeeping requirements. SBA reserves the right to simultaneously review multiple Program Announcement responses from an applicant applying to receive a grant under more than one of the categories listed in § 119.4. SBA welcomes comments on any aspect of the proposed Program Announcements (and their appendices).

Compliance With Executive Order 12866, 12988 and 13132, the Regulatory Flexibility Act, 5 U.S.C. 601–12, and the Paperwork Reduction Act, 44 U.S.C. Ch. 35

The Office of Management and Budget (OMB) reviewed this rule as a ''significant'' regulatory action under Executive Order 12866.

SBA has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612. Because Congress has limited the funding level for this program, it can only serve a limited number of small businesses by making grants to the defined organizations.

For purposes of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA will submit to the Office of Management and Budget (OMB) our proposed Program Announcements for the PRIME program. SBA will request OMB to approve or disapprove of these collections of information 30 days after submission. SBA proposes using three separate Program Announcements, one for each of the first three grant categories identified in § 119.4. The data collection requirements of the various Program Announcements (and their appendices) are described generally within this proposed regulation. The specific data collection requirements can be found in the Program Announcements themselves, which are attached to this proposed rule as Appendix A. You may also obtain a copy of the proposed Program Announcements for comments on the data collection requirements by visiting SBA's website at *www.sba.gov*.

The following list identifies the sections of this proposed regulation which describe generally the data collection requirements found within the Program Announcements (and their appendices).

(1) As referenced in § 119.11 (What information will be requested in an application under the PRIME program?) and § 119.12 (What criteria will SBA use to evaluate applications for funding under the PRIME program?), SBA proposes requesting information, such as, basic identifying information and core data, management and organization information, descriptions of past and present performance in serving low and very low income individuals, technical qualifications of the applicant, descriptions of activities proposed using PRIME grant funds, information regarding community partnering efforts, and reporting capabilities.

SBA needs this information to evaluate applicants and ensure that awards are made in furtherance of the PRIME program's objectives. SBA anticipates that the respondents to this request will include those organizations identified in § 119.3 (What types of organizations are eligible to apply for PRIME grants?). Based upon the Agency's knowledge of the industry, SBA estimates that approximately 500 applicants will apply to participate in the PRIME program. Respondents will need to submit the information referenced in §§ 119.11 and .12 each time they apply to participate in the PRIME program. SBA estimates that it will take respondents 80 hours to respond to a Program Announcement and fulfill the reporting and recordkeeping requirements referenced below.

(2) As referenced in § 119.13 (How will an applicant make a subgrant?), SBA proposes requesting information that would support the awarding a subgrant, such as, a description of how the subgrant will allow the grantee to provide expanded services and benefits.

SBA needs this information to assess whether issuing a subgrant is in the best interest of the objectives of the PRIME program. SBA anticipates that the respondents to this request will be grantees that have identified opportunities to enhance proposal implementation through the use of subgrants. Respondents will need to submit the information referenced in § 119.13 each time they request a subgrant. SBA estimates that it will take respondents 10 hours per response to provide the information requested by this section.

(3) As referenced in § 119.15 (If a grantee is unable to spend the entire amount allotted for a single year, can the funds be carried over to the next year?), SBA proposes requesting information, such as, an explanation of why funds were not spent during the period in which they were awarded, budget and matching fund information.

SBA needs this information to assess whether the grantee should be allowed to carry funds over to the next budget period. SBA anticipates that the respondents to this request will be grantees that have not expended their grant funds during the period in which they were awarded. If a respondent makes a request for funds to be carried over, this request will be made on an

annual basis. SBA estimates that the time it will take respondents to provide this information is 1 hour per response.

(4) As referenced in § 119.16 (What are the reporting, record keeping, and related requirements for grantees?) and § 119.17 (What types of oversight will SBA provide to grantees?), SBA proposes requesting a variety of data including narrative performance reports and financial status reports. The recipients of:

(a) Technical Assistance and Capacity Building Grants will be required to provide SBA with annual performance and, initially, quarterly financial reports.

(b) Research and Development Grants will be required to provide performance and financial reports in accordance with agreed upon milestones for each particular grant proposal.

(c) Discretionary Grants will be required to provide reports as appropriate for their proposal or on a schedule as described for Technical Assistance and Capacity Building Grants.

SBA needs this information to assess the impact of services provided by the grantees and to measure the success rate of individual clients, microenterprise development organizations, and the microenterprise development industry. SBA anticipates that all grantees will respond to this request as required by their respective grant category. SBA estimates that the time it will take respondents an average of 4 hours to provide this information.

(5) As referenced in § 119.19 (Is fundraising an allowable expense under the PRIME program?), SBA proposes requesting information supporting that the grantees have adequate fundraising resources for the non-Federal matching fund requirements of the PRIME program.

SBA needs this information to ensure that the applicants for the PRIME program have the ability to satisfy the program's regulatory matching requirements. SBA will require this information each time a grantee applies for grant funds under the PRIME program. SBA estimates that it will take respondents 2 hours to provide this information.

(6) As referenced in § 119.20 (Should grantees and subgrantees raise conflict of interest matters with SBA?), SBA proposes requesting that each grantee or subgrantee provide a copy of its conflicts of interest policy.

SBA needs this information to ensure that the grantees and subgrantees are in a position to avoid conflicts of interest, or the appearance of conflicts of interest, in the handling of grant funds or program provisions under the PRIME program. SBA anticipates that all grantees and subgrantees will provide this information. SBA will require that respondents provide this information once, prior to receiving funding under the PRIME program. SBA estimates that it will take respondents .50 burden hours to provide this information.

SBA is seeking your comment on the following: (a) whether the information SBA is requesting is necessary for the proper performance of the Agency, (b) the accuracy of the burden estimate (time estimated to complete each collection of information request), (c) ways to minimize the burden estimates, and (d) ways to enhance the quality of the information being collected. Please send comments on the data collection requirements to David Rostker, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW, Washington, DC 20503, and to Jane Palsgrove Butler, Associate Administrator, Office of Financial Assistance, 409 3rd Street, SW, Washington, DC 20416.

For purposes of Executive Order 13132, SBA has determined that this proposed rule has no federalism implications because the legislation authorizing it provides grants to private, non-profit organizations working directly with disadvantaged entrepreneurs.

For purposes of Executive Order 12988, SBA certifies that this proposed rule is drafted, to the extent practicable, in accordance with the standards set forth in section 3 of that Order.

List of Subjects in 13 CFR Part 119

Grant programs—business, Small business.

For the reasons stated in the preamble, the Small Business Administration proposes to add 13 CFR part 119 as follows:

PART 119—PROGRAM FOR INVESTMENT IN MICROENTREPRENEURS (''PRIME'' OR ''THE ACT'')

Sec.

Authority: 15 U.S.C. 634(b)(6) and Pub. L. 106–102.

§ 119.1 What is the Program for Investment in Microentrepreneurs (''PRIME'' or ''the Act'')?

PRIME authorizes SBA to make grants to ''qualified organizations'' to fund training and technical assistance for disadvantaged entrepreneurs, build these organizations' own capacity to give training and technical assistance, fund research and development of ''best practices'' in microenterprise development and technical assistance programs for disadvantaged microentrepreneurs, and to fund other undertakings the Administrator or designee deems consistent with these purposes.

§ 119.2 Definitions. For the purposes of this part, the following definitions apply:

Capacity Building Grant means a grant made under the Act identified under § 119.4(b).

Capacity building services means services provided to an organization or program that is currently, or is developing as, a microenterprise development organization or program, for the purpose of enhancing its ability to provide training and technical assistance to disadvantaged microentrepreneurs.

Collaborative means two or more nonprofit entities that agree to act jointly as a qualified organization under this part.

Developer means a person interested in starting or acquiring a microenterprise.

Disadvantaged entrepreneur, or *disadvantaged microentrepreneur,* means the owner, majority owner, or developer, of a microenterprise who is also—

(1) A low-income person;

(2) A very low-income person; or

(3) An entrepreneur who lacks adequate access to capital or other resources essential for business success, or is economically disadvantaged, as defined in this part.

Discretionary Grant means a grant made under the Act identified under § 119.4(d).

Economically disadvantaged entrepreneur, or *economically disadvantaged microentrepreneur,* means an owner, majority owner, or developer of a microenterprise whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the industry such that his or her ownership of a small business would help to qualify the small business for assistance under the section 7(j) or section 8(a) programs of the Small Business Act.

Emerging microenterprise development organization or program means a microenterprise development organization or program which has a microenterprise capacity building services component, but has had such a component for less than 4 years at the date of its application for a PRIME grant.

Grantee means a recipient of a grant under the Act.

Group has the same meaning as ''collaborative'' as defined in this section.

Indian tribe means any Indian tribe, band, pueblo, nation, or other organized group or community, including any Alaska Native village or regional or village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services the United States provides to Indians because of their status as Indians.

Indian tribe jurisdiction means Indian country, as defined in 18 U.S.C. 1151, and any other lands, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any tribe or individual subject to a restriction by the United States against alienation, and any land held by Alaska Native groups, regional corporations, and village corporations, as defined in or established under the Alaska Native Claims Settlement Act, public domain Indian allotments, and former Indian reservations in the State of Oklahoma.

Intermediary means a private, nonprofit entity serving or seeking to serve microenterprise development organizations or programs identified under § 119.3.

Large microenterprise development organization or program means a microenterprise development organization or program with 10 or more full time employees or equivalents, including its executive director, as of the date it files its application with SBA for a PRIME grant.

Local community means an identifiable area and population constituting a political subdivision of a state.

Low-income person means a person having an income, adjusted for family size, of not more than—

(1) For metropolitan areas, 80 percent of the median income; and

(2) For non-metropolitan areas, the greater of—

(i) 80 percent of the area median income; or

(ii) 80 percent of the statewide non-metropolitan area median income.

Microenterprise means a sole proprietorship, partnership or corporation that—

(1) Has fewer than 5 employees, including the owner; and

(2) Generally lacks access to conventional loans, equity, or other banking services.

Microenterprise development organization or program means a nonprofit entity, or a program administered by such an entity, including community development corporations or other nonprofit development organizations and social service organizations, that provides services to disadvantaged microentrepreneurs.

Qualified organization means an organization eligible for a PRIME grant identified under § 119.3.

Research and Development Grant means a grant made under the Act identified under § 119.4(c).

Severe constraints on available sources of matching funds means the documented inability of a qualified organization applying for a PRIME grant to raise matching funds or in-kind resources from non-Federal sources during the 2 years immediately prior to the date of its application because of a lack of or increased scarcity of monetary or in-kind resources from potential non-Federal sources.

Small microenterprise development organization or program means a microenterprise development organization or program with less than 10 full time employees or equivalents, including its executive director, as of the date it files its application with SBA for a PRIME grant.

Technical Assistance Grant means a grant made under the Act identified under § 119.4(a).

Training and technical assistance means services and support provided to disadvantaged entrepreneurs, such as assistance intended to enhance business planning, marketing, management, financial management skills, business operations, or assistance for the purpose of increasing access to loans and other financial services.

Very low income person means having an income adjusted for family size of not more than 150 percent of the poverty line, as defined in section 673(2) of the Community Services Block Grant Act, 42 U.S.C. 9902(2), including any revision required by that section.

§ 119.3 What types of organizations are eligible for PRIME grants?

An organization eligible for a PRIME grant (''qualified organization'') is one that is:

(a) A microenterprise development organization or program as defined in § 119.2 (or a group or collaborative thereof) that has a demonstrated record of delivering microenterprise services to disadvantaged microentrepreneurs;

(b) An intermediary, as defined in § 119.2;

(c) A microenterprise development organization or program as defined in § 119.2 that is accountable to a local community, working with a State or local government or Indian tribe; or

(d) An Indian tribe acting on its own, if the Indian tribe can certify that no private organization or program referred to in paragraphs (a), (b) and (c) of this section exists within its jurisdiction.

§ 119.4 What services or activities may PRIME grant funds be used for?

A recipient of a PRIME grant (''grantee'') must use PRIME grants to—

(a) Provide training and technical assistance to disadvantaged microentrepreneurs (''Technical Assistance Grant'');

(b) Provide training and capacity building services to microenterprise development organizations and programs to assist them to develop microenterprise training and services (''Capacity Building Grant'');

(c) Aid in researching and developing the best practices in the field of microenterprise development and technical assistance programs for disadvantaged microentrepreneurs (''Research and Development Grant''); or

(d) Conduct such other activities as the Administrator or designee determines to be consistent with the

purposes of the Act (''Discretionary Grant'').

§ 119.5 How are PRIME grant awards allocated?

(a) Not less than 50 percent of the number of grant awards made under this part will be awarded to qualified organizations benefiting very low-income persons, including those residing on Indian reservations. In general, SBA will make grant award decisions to serve diverse populations by including as recipients both large and small microenterprise development organizations, and organizations serving urban, rural, and Indian tribal communities.

(b) SBA will allocate the funding available for awards as follows:

(1) A minimum of 75 percent for Technical Assistance Grants;

(2) A minimum of 15 percent for Capacity Building Grants; and

(3) The remaining 10 percent or less may be allocated by SBA, in its sole discretion to be used for:

(i) Research and Development Grants; or

(ii) Discretionary Grants.

§ 119.6 What are the minimum and maximum amounts for an award?

(a) The minimum grant award for Technical Assistance and Capacity Building Grants will be $50,000, subject to the availability of funds.

(b) There is no minimum grant award for Research and Development or Discretionary Grants.

(c) The maximum amount that an individual grant recipient may receive in any fiscal year from a single award or multiple awards, under any of the purposes of the program, may not exceed $250,000 or 10 percent of the total grant funds available for award in that fiscal year, whichever is less.

§ 119.7 How long will grant funding be available to a single grantee?

(a) Subject to the availability of funds and continuing authorization of the PRIME program, funding will be available on an annual basis allowing for the initial grant plus up to 4 option years, for a total of 5 years. Continuation of funding during option years will depend upon funding limitations, the grantee's performance, continued legislative authorization, and otherwise at the discretion of SBA. A grantee may apply for funding for less than the 5-year time frame available.

(b) After a grantee receives an initial grant, funding for any option years will be in declining amounts as follows:

(1) 80 percent of initial grant amount in first option year;

(2) 60 percent of initial grant amount in second option year;

(3) 40 percent of initial grant amount in third option year; and

(4) 20 percent of initial grant amount in fourth option year.

§ 119.8 Are there matching requirements for grantees?

Applicants and grantees must match SBA funding as follows:

(a) Except as provided in paragraph (c) of this section, applicants and grantees must match Federal assistance with funds from sources other than the Federal Government in an amount not less than 50 percent of the grant amount awarded each year. Sources such as fees, grants, gifts, income from loan sources, and in-kind resources of a grant recipient from non-Federal public or private sources may be used to comply with the matching funds requirement;

(b) Grantees receiving funds in option years as described in § 119.7(b) are subject to matching requirements of this section.

(c) For an applicant or grantee with severe constraints on available sources of matching funds, the Administrator or designee may reduce or eliminate the matching requirements. Any reductions or eliminations must not exceed 10 percent of the aggregate of all PRIME grant funds made available by SBA in any fiscal year.

(d) An applicant may request a waiver of the matching fund requirement by submitting a written request with its application for funding. The request must justify the need for a waiver indicating:

(1) The cause and extent of the constraints on the historical and projected ability to raise matching funds;

(2) Fund raising efforts up to the time the application is submitted;

(3) Based on those efforts, a list of any matching funds expected for the PRIME grant; and

(4) The extent to which, without the waiver, services under the PRIME program will be unavailable to an area with a demonstrated concentration of microenterprises.

§ 119.9 How will a qualified organization apply for PRIME grant awards?

(a) SBA will issue Program Announcements specifying the terms, conditions, and evaluation criteria for each potential set of awards. Program Announcements will summarize the purpose of the available funds; will advise potential applicants regarding how to obtain an application packet; and will provide summary information regarding deadlines and other requirements. Program Announcements may specify any limitations, special rules, procedures, and restrictions for available funding.

(b) Applicants may submit applications in response to the Program Announcements. Each applicant shall submit an application for a grant in accordance with this part and the applicable Program Announcement.

(c) SBA reserves the right to consider at the same time multiple applications from a single applicant when appropriate.

§ 119.10 Will SBA give preferential consideration to other SBA program participants?

In making grants under this part, SBA will not give preferential consideration to an applicant that is a participant in the program established under section 7(m) of the Small Business Act.

§ 119.11 What information will be requested in an application under the PRIME program?

Each application must contain the information and documentation specified in the applicable Program Announcement including, but not limited to, the following items.

(a) For applications seeking Technical Assistance Grants:

(1) Identifying information and core documentation for the applicant including such items as the applicant's articles of incorporation, by-laws, proof of IRS tax-exempt status, financial statements, and reference contacts.

(2) A description of past and present activities and technical qualifications of the applicant, including workshops, programs and other technical assistance services, with specific descriptions of the extent to which such services have reached low and very low-income individuals, and the success rates of clients.

(3) A list of applicant's community partnerships and collaborations with state and local entities, and a description of how such partnerships and collaborations are serving microentrepreneurs.

(4) A description of the proposed activity for which the applicant will use PRIME grant funds, including training programming plans; a plan for outreach and delivery; applicant's capacity to provide thorough and detailed reports; and a description of the applicant's current data collection and management system, such as computer hardware, software and internet capabilities.

(5) In the event the applicant is a collaborative, a plan for maintaining internal controls, accountability, and program quality control among the participants of the collaborative.

(6) Resumes of the personnel that will be administering and managing the proposed activities under the PRIME grant, showing knowledge in such areas as business development, business structures, financial management, and business training and counseling.

(7) A list of grants received, and/or contracts entered into, that are similar in scope to the subject grant, including name of Federal or other agency providing funding, grant or contract number, and a summary of services provided.

(b) For applicants seeking Capacity Building Grants:

(1) See paragraphs (a) (1) , (5) , (6) and (7) of this section.

(2) A description of past and present activities and technical qualifications of the applicant, including workshops, programs, operational services, and other technical assistance services, or program development services with specific descriptions of the extent to which such services have improved the operations of client MDOs, assisted client MDOs with operational issues, and assisted client MDOs in reaching low and very low-income individuals.

(3) A description of the proposed activity for which the applicant will use PRIME grant funds, including training programming plans, a plan for outreach and delivery, applicant's capacity to provide thorough and detailed reports; a description of the applicant's current data collection and management system, such as computer hardware, software, and internet capabilities and a description of how these capabilities will or will not be integrated into the training of MDOs.

(c) For applicants seeking Research and Development Grants:

(1) See paragraphs (a)(1), (6), and (7) of this section.

(2) A research proposal indicating the thesis, method(s), scope, duration, and implementation plans (if any).

(3) A description of the expected effect of the research on services to disadvantaged microentrepreneurs.

(d) For applicants seeking Discretionary Grant:

(1) See paragraph(a)(1) of this section.

(2) A description of the proposed activity for which the applicant will use PRIME grant funds, including applicant's capacity to provide thorough and detailed reports, and a description of the applicant's current data collection and management system, such as computer hardware, software and internet capabilities.

§ 119.12 What criteria will SBA use to evaluate applications for funding under the PRIME program?

During the first year for which funding is available for the PRIME program, SBA will give special consideration to organizations located in and serving areas of, or with a history of successful outreach to, low-income and very low-income persons, to enable the Prime program to assist those with the greatest need first. SBA will evaluate applications for funding in accordance with the specific goals of the Act, and as more fully described in the Program Announcements. Evaluation criteria include, but are not limited to, the following:

(a) Applications for Technical Assistance Grants:

(1) Applicants will compete within two levels of expertise:

(i) The start-up level, for those that have been in operation as a microenterprise development organization for 4 years or less; and

(ii) The experienced level, for those that have been in operation for more than 4 years.

(2) SBA will evaluate organizational structure, financial stability, financial management systems, personnel capacity, and electronic communication capabilities (or potential for same). SBA will also evaluate data collection capabilities, reporting capacities, and ability to account for performance and outcome.

(3) SBA will evaluate the applicant's history of providing technical assistance to low-income and very low-income microentrepreneurs. This factor includes patterns of program growth, client success, outcomes of training, success in establishing new businesses, and success in arranging micro-level financing when the client indicates financing as a goal.

(4) SBA will evaluate the applicant's ability to use community partnerships and collaborations with state and local entities to better serve low-income and very low-income microentrepreneurs.

(b) Applications for Capacity Building Grants:

(1) SBA will evaluate the criteria set forth in paragraph (a)(2) of this section.

(2) SBA will evaluate the applicant's history of providing capacity building services to MDOs, as an indication of the organization's understanding of the goals and purposes of capacity building, its historical effectiveness with the microenterprise development industry, and its ability to provide quality programming to the targeted market. SBA will evaluate patterns of program growth, outcomes of training, types of services provided, delivery systems used, the number and types of clients served, and the successes realized within the client's organizational goals.

(3) SBA will evaluate expected impact on client MDOs; expected impact on services to low-and very-low income microentrepreneurs; and a plan for service and delivery.

(c) Applications for Research and Development Grants:

(1) SBA will evaluate the criteria set forth in paragraph (a)(2) of this section.

(2) SBA will evaluate how the research potentially will enhance microenterprise-oriented technical assistance services to disadvantaged entrepreneurs. Applicants must show the method(s), scope, duration, and implementation plans of the proposed research.

(3) SBA will evaluate applicant's plan of action incorporating original and secondary research. Applicants must show impact on improved access to microenterprise development services for disadvantaged microentrepreneurs, and the expected replicability/transferability of the finished product to the field.

(d) Applications for Discretionary Grants will be evaluated in accordance with the requirements of each project.

§ 119.13 How will an applicant make a subgrant?

(a) An applicant that wants to make subgrants using PRIME grant funds must receive written approval from SBA prior to making subgrants. The applicant must identify the subgrantee(s) and describe in detail what the subgrantee(s) will do to help the grantee implement its proposal. An applicant must submit information to SBA demonstrating that, through the subgrantee(s), the grantee's program will:

(1) Provide expanded services to the community,

(2) Provide a method by which one or more previously unserved communities will gain access to the program, or

(3) Provide other specific benefits to the clients, such as specialized training, expanded schedules of operation, or other benefits.

(b) If an applicant has identified potential subgrantee(s) at the time it submits an application for a PRIME grant, the applicant must include the information requested in paragraph (a) of this section in the application. Otherwise, the applicant or grantee may submit the requested information at such time that approvals for subgrantee(s) are requested.

(c) A grantee may not use more than 7.5 percent of the assistance received under its PRIME grant for administrative expenses in connection with the making of subgrants.

§ 119.14 Are there limitations regarding the use of program income?

Program income, as defined in OMB Circular A–110, may only be used to further PRIME program objectives. As such, fees collected from clients, and other program income as defined, may be used to help fund the matching requirement. All program income, as defined, shall be reported on financial reports submitted to SBA and added to funds committed to the project by SBA and the recipient organization. However, any interest earned in excess of the maximum allowable amount as specified in the OMB circular incorporated into the grant must be returned to the Federal Government by the grantee.

§ 119.15 If a grantee is unable to spend the entire amount allotted for a single fiscal year, can the funds be carried over to the next year?

(a) The grantee may request approval to use unexpended funds in the next budget period. This is permissible if funds are to be used for a non-severable, non-recurring project or activity within the scope of the PRIME program. Non-severable means a project in its entirety that cannot be subdivided. The request for using unexpended funds in the next budget period must include the following:

(1) SF 424, budget pages, and justification;

(2) Explanation of why the funds were not expended during the period in which they were awarded; and

(3) Evidence of match. The match requirement for funds carried over to the next budget period can be met by using any excess of matching funds from the current budget period, new matching funds, or a combination of both.

(b) The request must be made no later than 60 days before the end of the budget/project period or the de-obligation process will begin. Approved requests will require the issuance of a revised Notice of Award. Expenditures for funds carried over to the next budget period must be tracked separately.

§ 119.16 What are the reporting, record keeping, and related requirements for grantees?

A grantee must keep records and meet the other requirements of section 115 of the Riegle Community Development and Regulatory Improvement Act of 1994 (Riegle Act), as if it were a community development financial institution. (*See* 12 U.S.C. 4714). In addition to meeting requirements of the Riegle Act, a grantee must also maintain data allowing it to measure the impact of services provided by it and any subgrantees, and, if specifically required by the terms of the PRIME grant, measure the success rate of individual clients whom the grantees assist. SBA will detail such requirements in its Program Announcements.

§ 119.17 What types of oversight will SBA provide to grantees?

(a) In addition to reports required under the Riegle Act, SBA will require reports in accordance with applicable OMB circulars. Such reports will include the following information:

(1) For recipients of Technical Assistance and Capacity Building Grants, for the first three years of receiving grant funding, narrative performance reports and financial status reports will be required quarterly within 15 calendar days of the end of each quarter. Thereafter, SBA may reduce the frequency of reports from quarterly to semi-annually, as it deems appropriate. In addition, details of expenditures will be required with each request for payment. Grantees will be required to submit audited financial statements on an annual basis, if available, or annual financial statements prepared by a licensed, independent public accountant, within 120 calendar days of the end of the grantee's fiscal year.

(2) For recipients of Research and Development Grants, reports will be required in accordance with agreed upon milestones and as part of the disbursement process.

(3) For recipients of Discretionary Grants, reports will be required as appropriate for the project, or on a schedule as described in paragraph(a)(1) of this section, whichever is more frequent.

(b) In addition, SBA may, from time to time, make site visits to the grantee, and review all applicable books and records.

§ 119.18 What are the restrictions against lobbying?

No assistance made available under the PRIME program may be expended by a grantee or subgrantee to pay any person to influence, or attempt to influence, any agency, elected official, officer, or employee of a Federal, State, or local government in connection its participation in the program.

§ 119.19 Is fundraising an allowable expense under the PRIME program?

Expenditures of grant funds for fundraising activities are not allowable costs under this program. Applicants must be able to raise matching funds without the assistance of grant funds. Unless the full requirement for matching funds is waived, the applicant must demonstrate that it has adequate fundraising resources to obtain required non-Federal matching funds to perform the project.

§ 119.20 Should grantees and subgrantees raise conflict of interest matters with SBA?

Each grantee or subgrantee must provide SBA with a copy of its conflicts of interest policies prior to receipt of funding under the program. Such policies must clearly describe the grantee's or subgrantee's protections from conflicts of interest or the appearance thereof in the handling of grant funding and program provision under this program.

Dated: September 25, 2000.

Aida Alvarez,

Administrator.

Note: The following appendix will not appear in the Code of Federal Regulations.

Program for Investment in Microentrepreneurs

DATE:
TO: Applicants
FROM: Office of Procurement and Grants Management (OPGM)
SUBJECT: Program Announcement No. PRIME 01–1, Program for Investment in Microenterprise Act, (''PRIME'') to provide disadvantaged microentrepreneurs training and technical assistance to start, operate, or expand their businesses.

The U.S. Small Business Administration plans to issue Federal grants awards to qualified organizations under PRIME to provide training and technical assistance to disadvantaged microentrepreneurs. These organizations include: non-profit microenterprise development organizations or programs; intermediaries (as defined); other microenterprise development organizations or programs (as defined) that are accountable to a local community, working in conjunction with a State or local government or Indian tribe; or Indian tribes acting on their own, with proper certification that no other qualified organization exists within their jurisdiction. You are invited to submit an application, an original and two (2) copies, in response to Program Announcement No. PRIME 01–1. You are required to bind the cost proposal and technical proposal separately. Prepare the technical and cost proposals in single-spaced 12-pt. font format. The technical proposal must not exceed 50 pages, excluding exhibits and appendices. The Government will not return proposals, but will retain them for a limited period of time.

The closing date for the program announcement is _____, 4:00 P.M., Eastern Standard Time. Address your applications/proposal to the U.S. Small Business Administration, Office of Procurement & Grants Management (OPGM), 409 3rd Street, SW, 5th Floor, Washington, DC 20416, Attention: Mina Bookhard, Agreement Officer. If hand carried, deliver the application/proposal to Mina Bookhard, or her designee, at the above address. Deliveries to other locations will be considered late if not received in OPGM at the U.S. Small Business Administration by 4:00 p.m. on _____. Please place the following notation in the lower left corner of the sealed envelope or package:

THIS IS A SEALED OFFER. DO NOT OPEN. STAMP THE DATE AND TIME RECEIVED ON THE ENVELOPE. THE ENCLOSED APPLICATION IS IN RESPONSE TO PROGRAM ANNOUNCEMENT NUMBER PRIME 01–1, DUE _____ AT 4:00 P.M., Eastern Standard Time, AT SBA's OFFICE OF PROCUREMENT & GRANTS MANAGEMENT.

Applicants will be required to meet the standards for financial management systems as prescribed in the Office of Management and Budget's (OMB) Circular A–110, Subpart C, sections .21 through .28, and 13 CFR Part 143.

Questions concerning this program announcement should be directed to Warren Boyd at (202) 205–7534. Questions about budget or funding matters should be directed to Mina Bookhard, at (202) 205–7080.

Sincerely,

Sharon Gurley, Director, *Office of Procurement and Grants Management.*

OFFICE OF FINANCIAL ASSISTANCE

PROGRAM ANNOUNCEMENT

PROGRAM FOR INVESTMENT IN MICROENTREPRENEURS ACT, (''PRIME'')

TO PROVIDE TRAINING AND TECHNICAL ASSISTANCE TO DISADVANTAGED ENTREPRENEURS

FISCAL YEAR 2001

U.S. SMALL BUSINESS ADMINISTRATION OFFICE OF FINANCIAL ASSISTANCE

OPENING DATE: _____

CLOSING DATE: _____

ANNOUNCEMENT NO: PRIME 01–1 _____

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I. Legislation Purpose

The Program for Investment in Microentrepreneurs Act of 1999 (P.L. 106–102) became law on November 12, 1999. 15 U.S.C. 6901 *et seq.* (''PRIME'' or ''the Act). The Act authorizes the Administrator of the U.S. Small Business Administration (SBA) to establish a microenterprise training and technical assistance program for disadvantaged microentrepreneurs and to provide training and capacity building grant program to microenterprise development organizations (MDOs). Additionally, the Act authorizes research and development of best practices for microenterprise development and technical assistance programs for disadvantaged entrepreneurs and other activities as the Administrator of SBA determines are consistent with the Act. PRIME has several purposes for which SBA will issue separate program announcements soliciting applications geared toward a particular legislative purpose. Program Announcements called for under the Act solicit, from eligible organizations, applications for grant funding to be used to carry out the purposes of the Act as follows:

Program Announcement No. PRIME 01–1 calls for applications from qualified organizations wishing to obtain grant funding for the purpose of providing training and technical assistance programs for disadvantaged microentrepreneurs.

Program Announcement No. PRIME 01–2 calls for applications from qualified organizations wishing to obtain grant funding for the purpose of providing training and capacity building services to microenterprise development organizations and programs and groups of such organizations to assist them in developing microenterprise training and services.

Program Announcement No. PRIME 01–3 calls for applications from qualified organizations wishing to obtain grant funding for the purpose of pursuing research and developing best practices in the field of microenterprise and technical assistance programs for disadvantaged entrepreneurs.

The purpose of this Program Announcement No. PRIME–01–1, is to solicit applications from qualified organizations wishing to obtain grant funding for the purpose of providing training and technical assistance programs for disadvantaged microentrepreneurs. These PRIME grants will enable MDOs to offer disadvantaged microentrepreneurs training and technical assistance that will make a difference in their ability to start, grow, and sustain microenterprises in economically distressed, high unemployment areas. Seventy-five (75) percent of available PRIME funds will be used for training and direct technical assistance to disadvantaged microentrepreneurs and of the funds allocated for training & technical assistance, 50% will be used to benefit very lows income persons. Subject to the availability of funds, grants awarded under this Program Announcement will be for a minimum of $50,000 with no one grant exceeding $250,000 or 10% of the total amount appropriated, whichever is less.

II. Introduction

Congress recognized that many disadvantaged microentrepreneurs lack sufficient training and education to gain access to capital to establish and expand their own small businesses. It enacted PRIME to augment training and technical assistance under the Small Business Act and other legislation. PRIME grants to qualified MDOs will help meet more training and technical assistance needs for disadvantaged microentrepreneurs, thereby encouraging entrepreneurship and community development.

Many low income and very-low income entrepreneurs need training and technical assistance to start, operate, or expand their businesses. In order to achieve measurable success in the effort, the providers of this training and technical assistance, (MDOs) must be accessible, competent, consistent and committed to the entrepreneur's progress over extended periods of time.

For every business started or microloan made, a number of entrepreneurs are preparing themselves for business start. A generally accepted assumption in the microenterprise

industry is that it takes approximately 10 potential microentrepreneurs for every microenterprise started or microloan booked. The cost of training is substantial because those at the entry-level stage of development typically require the greatest amount of dedicated advice and guidance, over an extended period of time, to achieve the highest rates of success. Funding is scarce relative to the need. The microenterprise industry has found the technical assistance-funding gap to be a nationwide condition, particularly in the very low-income sector.

This Program Announcement addresses funding for training and technical assistance for disadvantaged entrepreneurs, as defined, in the entry-level stages of development. The program requires that grantees match a portion of the SBA's funds with funds from other sources.

III. Program Overview

1. *Project Name:* Program for Investment in Microentrepreneurs (PRIME).

2. *Purpose:* Provide training and technical assistance to disadvantaged microentrepreneurs for the purpose of enhancing business planning, marketing, management, financial management skills, and assistance for the purpose of accessing financial services.

3. *Federal Catalog Number:* 59.049.

4. *Authority:* The Program for Investment in Microentrepreneurs Act of 1999, ''PRIME'', P.L.106–102, 15 U.S.C. 6901 *et seq.*

5. *Funding Instrument:* Grant.

6. *Funding:* Funding is subject to the availability of funds and the requirements enumerated under the Act.

7. *Funding Range:* Target award amounts will be a minimum of $50,000. Award amounts may vary, depending upon availability of funds (and performance for option years); however, no single person may receive more than $250,000 or ten (10) percent of the total funds made available for this program in a single fiscal year, whichever is less. In general, match is required, although SBA may reduce or eliminate the required match in certain circumstances (up to a program limit of 10 percent).

8. *Number of Awards:* SBA anticipates issuing multiple awards under this Announcement. The number may vary, based on the needs of the pool of qualified applicants received and the amount of available funds. At least 75% of all funds available under the Act must be awarded under this Program Announcement.

9. *Targeted assistance:* A minimum of 50% of the funds available for grants under the PRIME Act must be used to benefit very low income persons (as defined in this document), including those residing on Indian reservations.

10. *Closing Time and Date for the Submission of Applications:* _____ at 4:00 P.M. Eastern Daylight Time.

11. *Project Starting Date:* _____ (estimated).

12. *Project Duration:* The period performance for this grant is one base year with 4 twelve-month options subject to availability of funds and continued program authorization. The total possible period of performance is five years. Each option year will constitute a separate budget period. The project recipient's satisfactory performance will be one of the key factors in determining the award of an option year. Failure to secure the required annual non-Federal contribution during any project year may jeopardize continued option year funding.

13. *Proposal Evaluation:* Applications will first be screened to determine if the applicant meets certain mandatory eligibility requirements. Applicants that do not document in their application that they meet these requirements will not be evaluated by SBA for participation in the Prime Program. In addition, applications that are incomplete, illegible, or unreadable, in whole or in part, will be deemed incomplete and will not be evaluated.

Eligible proposals will be scored by an Objective Review Committee (ORC) based on evaluation criteria stated in this program announcement. The ORC will consist of SBA officials and may include Federal Officials from other agencies. Microenterprise Development Branch staff will review the ORC evaluations, the ORC's summary report on each applicant, and the applicant's proposals to determine the final scoring of award recipients. SBA may ask applicants for clarification on the technical and cost aspects of the proposals. Such clarifications must not be construed as a commitment to fund the proposed effort.

14. *Points of Contact:* Questions concerning the technical aspects of this Program Announcement should be directed to the Microenterprise Development Branch at (202) 205–7534. However, due to the competitive process, SBA will be unable to assist with answers to specific questions regarding individual proposals or requests for assistance in completing proposals. Questions concerning budgeting or funding for this grant should be directed to Mina Bookhard at (202) 205–6621.

15. *Award Notification:* All applicants will receive a written notification relative to selection of award recipients. This written notice will be SBA's *final* response to this program announcement. SBA will not provide debriefing sessions if your proposal was not successful.

16. *Cancellation:* SBA reserves the right to cancel this Program Announcement in whole or in part at the Agency's discretion.

IV. Eligible Applicants for This Grant

An organization will be considered eligible for funding for the purpose of providing training and technical assistance to disadvantaged microentrepreneurs if it meets the following qualification requirements:

1. A microenterprise development organization or program (or group or collaborative thereof) that has a demonstrated record of delivering microenterprise services to disadvantaged entrepreneurs, OR

2. An intermediary (as defined in this document) which has experience in delivering technical assistance to disadvantaged entrepreneurs, OR

3. A microenterprise development organization or program (as defined in this document) that is accountable to a local community, working in conjunction with a State or local government or Indian tribe, OR

4. An Indian tribe acting on its own, if the Indian tribe can certify that no private organization or program referred to in this paragraph exists within its jurisdiction.

An eligible applicant for the Prime technical assistance grant must provide documentation in its application that it falls within one of the above categories of qualified organizations. Such documentation should include but is not limited to:

1. A copy of your organization's IRS tax-exempt certificate including the IRS code under which your organization is considered non-profit;

2. Certification by your Secretary of State that your organization is legally allowed to do business in the State and a copy of your organization's articles of incorporation and by-laws;

3. For category 4 in the preceding paragraph, written certification from a duly authorized person that no other qualified organization (i.e. private organization or program as defined in categories 1–3 above) exists within its jurisdiction; and

4. Financial statements for the past 3 years. If your organization has been in business for less than 3 years provide your year end financial statements for

those years completed and a financial statement not less than 90 days old.

SBA will not evaluate applications that do not meet these requirements. SBA may not screen applicants for eligibility until after the Closing Date for application acceptance. SBA will attempt to notify applicants of ineligible proposals as soon as practicable. However, SBA is under no obligation to notify ineligible applicants before the Closing Date for the acceptance of applications under this Program Announcement. SBA strongly urges all applicants to ensure all eligibility requirements are met and documented before sending an application to SBA.

V. Ineligible Applicants for This Grant

The following applicants will automatically be considered ineligible and their applications will not be evaluated:

1. Any organization with an unresolved audit by any Federal agency.

2. Any organization suspended or debarred from any Federal agency or is otherwise excluded from Federal non-procurement or procurement programs.

3. Any organization which has defaulted on an obligation to the United States.

VI. General Information

1. Definitions

Throughout this Program Announcement specific terminology may be used, as defined in the Act and the accompanying rule (13 CFR part 119) published on ____. The definitions are contained in a glossary of terms located at the end of this document in Section XV.

2. Collaborative Applications

a. If you participate in a collaborative (as defined in this document), all entities who are party to the collaborative must separately meet the statutory requirements and eligibility requirements in order to apply as a collaborative.

b. Applications from collaboratives must name the primary liaison with the Federal government, and include a copy of the collaborative agreement outlining responsibilities of each partner organization. An authorized signature from each organization must appear on the agreement. The primary liaison will be responsible for coordinating reports and requests for funding.

3. Program Income

All program income as defined in OMB Circular A–110, and OMB A–122 shall be reported on financial reports submitted to SBA and added to funds committed to the project by SBA and recipient organizations. Program income may only be used to further eligible program objectives.

4. Cost Principles

a. *General:* All costs approved for a successful applicant must meet the tests of necessity, reasonableness, allowability and allocability in accordance with the cost principles applicable to this award. All proposed costs are subject to pre-award audit. Grantees are responsible to ensure proper management and financial accountability of Federal funds to preclude future cost disallowances. Payment will be made by reimbursement or advance payments as described in the grant award document and applicable OMB Circulars.

b. *Carryover Policy:* The grantee may request approval to use unexpended funds in the next budget period. This is permissible if funds are to be used for a non-severable, non-recurring project or activity within the scope of the PRIME program. Non-severable means a project in its entirety that cannot be subdivided. The request for using unexpended funds in the next budget period must include the following:

(1) SF 424, budget pages, and justification;

(2) Explanation of why the funds were not expended during the period in which they were awarded; and

(3) Evidence of match. The match requirement for funds carried over to the next budget period can be met by using any excess of matching funds from the current budget period, new matching funds, or a combination of both.

The request must be made no later than 60 days before the end of the budget/project period or the de-obligation process will begin. Approved requests will require the issuance of a revised Notice of Award. Expenditures for funds carried over to the next budget period must be tracked separately.

5. Publications/Websites

Any publications or websites developed under this grant must be submitted to SBA for prior review and approval. SBA will have an unlimited license to use data and written materials generated under this grant award, whether or not the materials are copyrighted. Any publications resulting from this project must include the following acknowledgement of support, whether copyrighted or not, in legible, easily readable print:

This grant is partially funded by the U.S. Small Business Administration. SBA's funding is not an endorsement of any products, opinions, or services. All SBA funded programs are extended to the public on a nondiscriminatory basis.

The grant recipient may not use the U.S. Small Business Administration name or logo for the endorsement of any services, products, or merchandise under this award.

The SBA logo may appear on prominent webpages of Internet sites that are related to this project, but must appear with the above disclaimer in legible, easily readable print and acknowledgement of support in close physical proximity (within 2 inches) next to it.

6. Reports

a. General Reporting

The selected grantees will be required to submit the reports as outlined below. Participants must agree to cooperate with SBA in the collection and retention of data required by this agency. Your ability to meet reporting requirements must be addressed in the Technical Proposal.

Payments may be withheld if reports are not submitted within the required time frame or if the quality of reports is considered inadequate.

b. Performance Reports

Quarterly performance reports, unless otherwise specified, must contain a summary of activity for the reporting period using the following format:

1. A comparison of actual accomplishments to the estimated milestones established in the proposal and/or subsequent grant agreement.

2. A discussion of accomplished milestones and reasons for slippage in those cases where milestones are not met. Where milestones were not met, a plan of action must be provided to overcome these slippages or a detailed statement of how the program will better serve disadvantaged entrepreneurs if the milestones are revised.

3. Evidence that at least 50% of funding expended during the reporting period was expended for the benefit of very-low income clients.

4. Information relating to actual financial expenditures of budgeted cost categories versus the estimated budget award, including an explanation of all cost overruns, if any, by budgeted cost category. Financial data furnished in this report is from a manager's standpoint and is in addition to that furnished in the financial reports cited below.

5. Client Progress Reports. SBA is interested in the actual outcome of technical assistance provided to disadvantaged entrepreneurs. As such,

participants will be required to compile, maintain, and submit data as part of its quarterly performance reports. This report includes information regarding each client as follows:

A. At Intake:

- Income level (low-income, very-low income, other)
- Geographic location (Address, Urban, Suburban, Rural)
- Goal of training (business start, business enhancement, professional improvement, self-employment, other)
- Business status (is it a start-up or existing business)
- Financing goal (if any)

Intake reports should be compiled and maintained by the MDO within seven business days of initial intake under this grant.

B. At Client Follow-up:

- Income level
- Geographic location
- Training status in terms of intake goals
- Business status
- Financing status in terms of intake goals

Follow up data should be collected on all clients meeting the Six, Twelve, and Eighteen-Month receipt of technical assistance with the grantee. Follow-up reports should be submitted with quarterly performance reports.

6. Any other pertinent information, including any significant accomplishments or met milestones of special significance. The report should include items which may be determined appropriate by SBA after acceptance of the grant proposal but which cannot be pre-determined due to the undetermined special purpose of the grant at the writing of this document.

Quarterly reports will be due no later than:

(a) January 15 for the period ending December 31,

(b) April 15 for the period ending March 31,

(c) July 15 for the period ending June 30, and

(d) October 15 for the period ending September 30.

c. Financial Reports

1. Financial Status Report Forms must be submitted every quarter with the performance reports. Reports must include Standard Form (''SF'') 269, the Financial Status Report, and SF 272, the Federal Cash Transactions Report.

2. The year-end report must include a cost breakdown of actual expenditures and costs incurred by line item. Participants will also be required to submit the SF 2069, Detailed Actual Expenditures for Period Covered by Request, with the final SF 269.

3. In addition, grantees will be required to submit audited annual financial statements, if available, or annual financial statements prepared by a licensed, independent public accountant, within 120 days of the end of the grantee's fiscal year period.

SBA may withhold payment of advances or reimbursements if reports are not received or are regarded as inadequate.

SBA may, at its discretion, reduce reporting requirements to semi-annually as it deems appropriate. SBA will notify participants if it decides to take such action.

7. Match Requirements

In general, funds awarded under the PRIME Program will require a non-Federal match of not less than 50% of each dollar awarded. Matching funds may come from fees, non-Federal grants, gifts, funds from loan sources, and in-kind resources. After the initial grant, grant awards for the following option years will be made in declining amounts, declining by 20% of the initial grant amount in each successive year.

Exception: In the case of an applicant with severe constraints on available sources of matching funds, SBA may reduce or eliminate the 50% match requirement on a case by case basis. Any reductions or eliminations must not exceed 10% of the aggregate of all PRIME grant funds made available by SBA in any fiscal year.

Organizations seeking to receive a reduction or elimination of the matching fund requirement must include such a request (as a cover letter) with their proposal, and include justification and supporting documentation for their request. Submission of a request will not automatically guarantee that an exception, in whole or in part, will be granted. Rather, it will alert SBA to the applicant's desire to receive an exception.

8. Fundraising Not Allowable Expense

Expenditures for fundraising activities are not allowable costs under this grant. Applicants must be able to raise matching funds without the assistance of grant funds. The applicant must demonstrate that it has adequate fundraising resources to obtain required non-Federal matching funds to perform the project.

9. Subgrants

An organization selected to receive a grant under the PRIME Program may provide sub-grants to qualified small and emerging microenterprise development organizations.

Applicants wishing to provide sub-grants as a part of their implementation plan should include detailed information regarding same in their Technical Proposal.

An applicant that wants to make subgrants using PRIME grant funds must receive written approval from SBA prior to making subgrants. The applicant must identify the subgrantee(s) and describe in detail what the subgrantee(s) will do to help the grantee implement its proposal. An applicant must submit information to SBA demonstrating that, through the subgrantee(s), the grantee's program will:

(1) provide expanded services to the community,

(2) provide a method by which one or more previously unserved communities will gain access to the program, or

(3) provide other specific benefits to the clients, such as specialized training, expanded schedules of operation, or other benefits.

If an applicant has identified potential subgrantee(s) at the time it submits an application for a PRIME grant, the applicant must include the information requested in paragraph above in the application. Otherwise, the applicant or grantee may submit the requested information at such time that approvals for subgrantee(s) are requested.

The total amount of monies subgranted by the grantee must not exceed 50% of the total amount of the PRIME grant. A maximum of 7.5% of the funds awarded may be used by the grantee for administrative expenses in connection with the making of subgrants.

10. Subcontracts

Any and all subcontracts awarded under this grant must be approved by SBA in advance and in writing and must not exceed 50% of the total amount of the PRIME grant.

11. Diversity

In making grants under the Act, SBA will ensure that grant recipients include both large and small microenterprise organizations, serving diverse populations including urban, rural and Indian tribal communities serving diverse populations.

12. Prohibition on Preferential Consideration of Certain SBA Program Participants

In making grants under this Program Announcement, SBA will not give preferential consideration to an applicant that is a participant in the program established under section 7(m) of the Small Business Act.

VII. OMB Uniform Administrative Requirements and Cost Principles

The Prime Grant Notice of Award incorporates by reference all applicable OMB Circulars, including:

1. OMB Circular A–21, ''Cost Principles for Educational Institutions,'' containing cost principles for educational institutions;

2. OMB Circular A–87 ''Cost Principles for State, Local, and Indian Tribal Governments,'' containing cost principles for State, local governments, and federally recognized Indian tribal governments.

3. OMB Circular A–110, ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations,'' containing administrative requirements;

4. OMB Circular A–122, ''Cost Principles for Non-Profit Organizations,'' containing cost principles for non-profits; and

5. OMB Circular A–133, ''Audits of States, Local Governments, and Non-Profit Organizations,'' concerning audits.

Current versions of OMB Circulars are available from the Office of Management and Budget's website. The address is: *www.whitehouse.gov/WH/EOP/OMB/html/circular.html.*

VIII. Proposal Instructions and Evaluation Criteria

The technical and cost proposals must be bound separately. The technical proposal must be single-spaced and not exceed 50 pages, excluding exhibits and appendices. Prepare your proposal using the following outline.

1. Application Format

A. Technical Proposal

Section 1. Eligibility Requirements (not to exceed 5 pages)

In this section the applicant must prove that it falls within one of the four categories of qualified organizations. (See Section IV)

Applicants are reminded to include documentation of the mandatory eligibility requirements in their technical narrative. Failure to provide the mandatory eligibility documentation will result in disqualification of the application, and the application will not be evaluated. In addition, incomplete or illegible (in whole or in part) applications will not be evaluated.

Section 2. Applicant Experience and Activities. (not to exceed 15 pages).

Applicant experience includes information regarding current and past performance in providing training and technical assistance to disadvantaged entrepreneurs (as defined in this document.)

In this section, the applicant should discuss the items delineated below. To the extent possible, the applicant should provide internal statistical data to document its past experience and illustrate current activities.

1. An understanding of the microentrepreneur community and the needs of disadvantaged entrepreneurs.

2. Its existing and historical training and technical assistance program. If the applicant is a start-up organization it should discuss in detail the its current methods of training. Details regarding curriculum, types of technical assistance offered, and counseling services should be included. This discussion should include a detailed description of the programmatic information regarding activities and services offered to low and very low income individuals, and the success rates of the clients served.

3. As part of documenting past experience, the applicant should include a list of grants and or contracts similar in scope to the grant for which you are applying. Specifically provide the name, if any, of any Federal or non-Federal, agency(ies) or private sector foundations or organizations providing funding, the grant or contract number, a short summary of services provided under each grant, and the period(s) of performance. Include in each summary the name and contact information (phone number and E-mail address) of the person providing oversight on each grant or contract.

4. Discuss your organization's ability to penetrate the target market, including past and current strategies for outreach.

Section 3. Institutional Capacity (not to exceed 5 pages)

This section should include the following:

1. Personnel Qualifications and Internal Structure

• You must have, or exhibit the ability to obtain, personnel who are qualified to meet the goals of providing technical assistance under this grant. Provide resumes of personnel key to your organization's participation in the PRIME Program. The resumes should clearly present personnel's qualifications relative to this particular work. Special mention should be made of relevant experience. Personnel indicated must demonstrate knowledge of business development, business structures, business planning, marketing, business management, financial management, and training and counseling.

• Provide an organizational chart all proposed full-time and part-time project staff and the amount of time each will devote to the project. The PRIME Project Director must be a full time employee of the organization; however, the PRIME Project Director does not have to be solely dedicated to this activity. The Project Director (and other federally funded staff positions) must not engage in fundraising activities using Federal funds provided under this grant.

• Describe the role of subcontractors, subgrantees and/or outside consultants and indicate the percent of the project services you anticipate they will provide.

• Provide a description of at least one staff or consultant function to handle on-going program data collection and electronic reporting to SBA.

• Indicate the position(s) within your organization that will be responsible for financial record keeping regarding receipt and expenditure of program funds.

2. Data Collection and Maintenance Capacity

• Describe your organization's current client data collection and management system and how it will be used and/or modified to meet reporting and other requirements of this grant. If applying as a group or collaborative, describe how data management systems will be integrated for an inter-organizational uniform approach to data gathering and reporting.

• Discuss your organization's computer capacities, if any, and the software used. Indicate whether or not your organization is connected to the Internet and, if not, delineate plans to become connected. The applicant should indicate its level of willingness/capability to report data via the Internet as well as how the applicant will accomplish its electronic management, communication, and reporting goals.

• Describe your organization's internal systems of checks and balances in terms of financial, data collection, and reporting systems. If applying as a group or collaborative, also describe the plan for inter-organizational checks and balances in terms of those systems. Also indicate which member of the group or collaborative will be responsible for coordination and submission of data and reports, and how the collaborative will ensure that this responsibility will be fully implemented.

Section 4. Program Narrative (not to exceed 15 pages)

In this section, each applicant must set forth the following:

1. Proposed training and technical assistance management plan. The management plan to provide training and technical assistance to disadvantaged entrepreneurs plan should include but not be limited to long and short term training, counseling and technical assistance. Technical assistance and training activities under the Act must include the following activities:

- assistance for the purpose of enhancing business planning,
- marketing assistance,
- management assistance,
- assistance with financial management skills, and
- assistance for the purpose of accessing financial services.

For purposes of this grant program, technical assistance should be viewed as an ongoing function during the pre-start-up, start-up, maintenance, and growth periods of the business cycle. It includes, but is not necessarily limited to, assistance with the broad issues of business ownership such as business planning assistance, marketing assistance, management assistance, financial management skills assistance, and assistance for the purpose of accessing financial services. It should also include specific assistance in areas of expertise specific to the type of business being pursued. Technical assistance should include both counseling and training. Counseling should be viewed in terms of giving advice, guidance, or instruction specifically tailored to the needs of a single business. Training may include counseling, but can also include teaching in classroom or other public settings. Topics of training and counseling must include information necessary to start, manage, and/or operate a microbusiness. Information delivery media may vary from program to program and may include person to person oral communication, teleconferencing, video tape, printed materials, computer software, or any similar delivery mechanism provided it is effective in assisting clients in meeting their training goals. Technical assistance should not stop in the event microbusiness financing is obtained. It should continue through a significant period of time, to assist the microbusiness owner with continuing knowledge to enhance the chances for success.

2. Outreach and delivery plan. The plan should include, but not necessarily be limited to:

- brief description and map of the proposed service area;
- demonstration of the need for this program in the proposed geographic area;
- description of the target market to be served—geographic size, population numbers, population type (empowerment zone, urban, rural, suburban, Indian reservation);
- plans for penetration of the target market;
- strategies to be used for reaching its scheduling and delivery goals;
- methods by which the applicant organization will incorporate outside resources into the plan;
- evidence of and/or plans for building relationships with financing sources and/or otherwise making financial assistance available to those clients in need of micro-level financing.
- discussion of how the applicant organization will reach its goals in terms of local nuances in population density, economic stratification, levels of education, and racial and ethnic oriented issues that affect the disadvantaged in the defined area of operation.

Section 5. Strategic Alliances and Partnerships (not to exceed 5 pages)

In this section, the applicant should describe strategic alliances and partnerships with state and local entities. Inter-organizational cooperation regarding funding, training activities, utilization of space, utilization of human and other resources, client referral networks, and other such activities should be discussed. Organizations should illustrate how these alliances serve the best interests of disadvantaged entrepreneurs and how the alliances have enhanced the applicant's ability to provide training and technical assistance services to the target market.

Section 6 Timeline/Milestones (not to exceed 5 pages)

In this section the applicant must include a timeline with milestones covering the 12-month grant period. Milestones should clearly illustrate the applicant's goals for training and technical assistance activity in terms of the projected client, projected programming, and projected use of funds.

Section 7. Supporting Documentation

In this section the applicant should provide any necessary documentation to support its proposal, including but not limited to the following documents:

1. A statement signed by your Executive Director (or his/her duly authorized representative), authorizing SBA to make inquiries to other Federal Agencies as to the performance capabilities of your organization.

2. A copy of your organization's IRS tax exempt certificate including the IRS code under which your organization is considered non-profit.

3. Certification by your Secretary of State that your organization is legally allowed to do business in the State and a copy of your organization's articles of incorporation and by-laws.

4. A copy of your organization's financial statements for the last 3 years. If your organization has been in business for less than 3 years, provide your year-end financial statements for those years completed and a year-to-date financial statement not less than 90 days old.

5. A summary table of the training and technical assistance provided to date (limit to 3 pages). Include the income levels of clients served (low, very-low, other).

6. Resumes and reference information for personnel key to the delivery of technical assistance services to date.

7. An organizational chart of the entire organization. If you are applying as a group, or plan to use sub-contractors, or make sub-grants, include a second organizational chart that shows how the members of the group will interact and collaborate and/or how the sub-contractors and/or sub-grantees will fit into the work flow plan.

B. Cost Proposal

The cost proposal must include the application cover sheet, budget information, assurances and certifications. Additional information on how to organize the proposal is provided on page 23, ''Preparing Your Budget.'' The applicant's Cost Proposal will be evaluated in terms of the quality and effectiveness of the proposed training and technical assistance to be provided.

2. Evaluation Factors

SBA will evaluate applicant experience on two levels. Applicants having 4 years or less of experience providing training and technical assistance to disadvantaged entrepreneurs at time of application will be evaluated as ''start-up'' organizations. Applicants having more than 4 years or more of experience providing such services at time of application will be evaluated as ''experienced'' organizations. Whether start-up, or experienced, applicants are expected to provide information as requested in this Program Announcement.

Start-up organizations will be evaluated based on the general criteria listed below. The maximum number of points an applicant may receive for each criterion group are shown to the right of the listing.

A. Institutional Capability (total of 90 points)

The following factors are considered under this criteria:

(1) Organizational structure, financial stability, and financial management systems (20).

(2) Personnel (30).

(3) Electronic communication or potential for same (20).

(4) Data collection and reporting capability (20).

B. Past performance and history of performing technical assistance, especially to low and very-low income microentrepreneurs (20 points).

C. Management Plan for Proposed training and technical assistance, including outreach and delivery (total of 140 points).

The following factors are considered under this criteria:

(1) Proposed training and technical assistance activities to low and very low income mircoentrepreneurs (30).

(2) Outreach and delivery plan (20).

(3) Proposed use of community partnerships and collaborations with State and local entities (30).

(4) The appropriateness of the proposed activity to the purposes of the Act (10).

(5) The perceived ability of the applicant to carry out the proposed activity as well as the clarity of the proposal and its attainability in terms of the milestones set. (30).

(6) Performance and outcome measurement tools (20).

The total number of points an applicant may achieve as a start-up organization is 250. Experienced organizations will be evaluated based on the general criteria listed below. The maximum number of points an applicant may receive for each criterion group are shown to the right of the listing.

A. Institutional Capability (total of 90 points).

The following factors are considered under this criteria:

(1) Organizational structure, financial stability, and financial management systems (20).

(2) Personnel (30).

(3) Electronic communication or potential for same (20).

(4) Data collection and reporting capability (20).

B. Past performance and history of performing technical assistance, especially to low and very-low income microentrepreneurs (20 points).

C. Management Plan for Proposed training and technical assistance, including outreach and delivery (total of 140 points).

The following factors are considered under this criteria:

(1) Proposed training and technical assistance activities to low and very low income mircoentrepreneurs (30).

(2) Outreach and delivery plan (20).

(3) Proposed use of community partnerships and collaborations with State and local entities (30).

(4) The appropriateness of the proposed activity to the purposes of the Act (10).

(5) The perceived ability of the applicant to carry out the proposed activity as well as the clarity of the proposal and its attainability in terms of the milestones set. (30).

(6) Performance and outcome measurement tools (20).

The total number of points an applicant may achieve as a start-up organization is 250. As indicated above, applications will be reviewed for technical merit using the evaluation factors listed. Included in the evaluation processes will be qualitative and quantitative analyses of:

a. the applicant's management plan to provide training and technical assistance as described in this Program Announcement. SBA will analyze items including but not limited to the methods, materials, and counseling used to provide training & technical assistance. The evaluation will also include the outreach and delivery plan to identify and provide the assistance to the targeted recipients.

b. the applicants organizational structure, financial stability, financial management systems, personnel capacities, and electronic communication capabilities (or potential for same.) Additional analyses will be made regarding data collection capabilities, reporting capacities, and ability to account for performance of both the organization and the client.

c. the applicant's current activity and history of providing technical assistance to low and very-low income microentrepreneurs will be evaluated considering patterns of program growth, client success, outcomes of training, success in establishing new businesses, and success in arranging micro-level financing in instances where a client indicated financing as a goal.

d. the applicant's involvement in and ability to use community partnerships and collaboration with other entities will be analyzed. Collaborations will be analyzed in terms of any positive effects that such collaborations have had, or are anticipated to have on the applicant's ability to serve low- and very-low income microentrepreneurs. Applicants will also be evaluated in terms of the types, number, and frequency of collaborations needed based on the experience level of the organization.

IX. Option Year Funding

Applicants shall prepare application cover sheets (SF Form 424) and budgets for each of the 5 budget periods consisting of 12 months each. Applicants are advised that the performance period for specific awards made under this announcement may consist of one base year with up to 4 twelve-month option years. The project periods may consist of up to 5 twelve-month budget periods. Each additional twelve-month budget period beyond the original base year may be exercised at the discretion of the Government. Among the factors involved in deciding whether to exercise an option are the availability of funds, continuing program authorization, satisfactory performance of the applicant, and the determination that continued funding would be in the best interest of the Government.

After the initial grant, grant awards for the option years will be made in declining amounts, declining by 20 percent of the initial grant amount in each successive year.

X. Preparing Your Budget

INSTRUCTIONS FOR STANDARD FORM 424 (APPLICATION FOR FEDERAL ASSISTANCE)

Standard Form 424, Application of Federal Assistance, will be found beginning at page A–1 of this announcement. This guidance supplements that contained on the reverse side of the form.

Item 1. Self-explanatory
Item 2. Refer to instructions on reverse of form
Item 3. Refer to instructions on reverse of form
Item 4. Leave Blank
Item 5. Refer to instructions on reverse of form
Item 6. Refer to instructions on reverse of form
Item 7. Refer to instructions on reverse of form
Item 8. Enter: ''new''
Item 9. Enter: ''U.S. Small Business Administration''
Item 10. Enter: 59.049 Program for Investment for Microentrepreneurs (PRIME)
Item 11. Refer to instructions on reverse of form
Item 12. Refer to instructions on reverse of form

Item 13. Refer to instructions on reverse of form

Item 14. Refer to instructions on reverse of form

Item 15. Refer to instructions on reverse of form

Item 16. Enter: Check ''b.'' This program is not covered by E.O. 12372.

Item 17. Refer to instructions on reverse of form

Item 18. Refer to instructions on reverse of form

INSTRUCTIONS FOR STANDARD FORM 424A (BUDGET INFORMATION)

Budget information is found on pages *A–1 through A–11.*

The budget is the applicant's estimate of the total cost of performing the project or activity for which grant support is requested. The budget is to be based upon the cost of performing the project, including Federal and private sources. All proposed costs reflected in the budget must be necessary to the project, reasonable and otherwise allowable under applicable cost principles and Agency policies. All costs must be justified and itemized by unit cost on the Budget Worksheets (p. A–3).

Section A—Budget Summary

Column (A): Enter ''PRIME 01–1''.

Column (B): Enter the Catalog of Federal Domestic Assistance Number 59.049.

Section B—Budget Categories

Amounts entered by budget category in this section are for summary purposes only. Itemization and justification of specific needs by budget category are to be shown under line 21, Section F.

Line 6.a.–6.h. The budget amounts must reflect the total requirements for funds regardless of the source of funds. All amounts entered in this section are to be expressed in terms of whole dollars only after completing the requirements of Section F.

Line 6.j. Indirect costs are those costs related to the project that are not included as direct costs in a. through h.

Section C—Non-Federal Resources

Refer to instructions on reverse of form.

Section D—Forecasted Cash Needs

Refer to instructions on reverse of form.

Section E—Budget Estimates of Federal Funds Needed for Balance of the Project

Refer to instructions on reverse of form.

Section F—Other Budget Information

Line 21, Direct Charges: Identify and explain all items or categories under Section B in accordance with the instructions set forth below. The itemization must reflect the total requirements for funding from Federal and non-Federal sources. In most instances, Line 21 does not provide sufficient space to reflect all of the necessary information. Budget Worksheets are enclosed for your convenience. You may use these worksheets for the detailed budget information listed below or a reasonable facsimile; BUT each budget line item pertinent to your submission MUST ALSO be completed on the application. Please show a complete breakdown of all cost elements summarized in Section B on a separate sheet. Do not list on Line 21 any items included in the indirect expenses entered on Line 22 below.

a. Personnel: List the name, title, salary and estimated amount of time for each employee who will be assigned to this project. Note that fees, expenses, and estimated amount of time for outside consultants should be included in f., Contractual. The estimated performance time for outside consultants is not to exceed 50 percent of the total amount of the Prime grant. Resumes of all personnel assigned to this effort must be included in the application.

b. Fringe Benefits: Leave blank if fringe benefits applicable to direct salaries and wages are treated as part of indirect costs in the indirect cost rate negotiation agreement. If your organization does not have a federally negotiated fringe benefit package, list each component included as a fringe benefit.

c. Travel: Reimbursement will be made based on incurred cost. Estimates should be based on knowledge of the geographical area of small business locations. Reimbursement to contractors or volunteers will not be made for time in travel to and from the client's location. Supporting data should include numbers of trips anticipated, costs per trip per person, destinations proposed, modes of transportation, and related subsistence expenses.

Line 22 Indirect Charges:

(Attach Budget Worksheets or reasonable facsimile if sufficient space is not provided.)

Enter the indirect cost rate, date, and agency that issued rate.

If an indirect cost rate is not established, itemize elements and costs of overhead and G&A (General and Administrative) expense categories relative to the performance of this project.

XI. Assembly And Mailing Instructions

1. Please indicate the following information on the front of your return envelope:

a. Your organization's name and return address including zip code in the upper left-hand corner of the return envelope.

b. Place the following notation in the lower left-hand corner of the sealed envelope.

THIS IS A SEALED OFFER. DO NOT OPEN. STAMP THE DATE AND TIME RECEIVED ON THE ENVELOPE. THIS PROPOSAL IS IN RESPONSE TO PROGRAM ANNOUNCEMENT NUMBER, _____ DUE _____, 2000, AT 4:00 P.M., EASTERN STANDARD TIME, AT THE U.S. SMALL BUSINESS ADMINISTRATION, OFFICE OF PROCUREMENT & GRANTS MANAGEMENT, 409 3RD STREET, SW, 5TH FLOOR, WASHINGTON, DC 20416, ATTENTION: MINA BOOKHARD.

2. Application. Please submit an original and 2 copies of the pages described below in items a and b. They are part of the Announcement and should be completed and submitted with an original and 2 copies of your proposal:

a. The Federal Assistance Application (Standard Form 424), including the cost and technical proposals, and related budgetary data.

b. Appendix B, Assurances and Certifications (with appropriate signature).

3. To facilitate review and processing of the proposals, your submission must be arranged, as follows, in two separately bound parts:

a. Part I: COST PROPOSAL—This part is to be comprised of the Application, the Budget Information, and the Assurances and Certifications. The material identified as Part I must be bound separately from the Technical Proposal. DO NOT include any technical information in Part I, The Cost Proposal.

b. Part II: TECHNICAL PROPOSAL—This part is comprised of the Program Narrative. The proposal should be completed with a table of contents and must be responsive to the evaluation criteria set forth on the pages 20–22. The Technical Proposal must be bound separately from Section I and must not exceed 50 pages, excluding exhibits and appendices. DO NOT include any cost information in Part II, The Technical Proposal.

4. Your application should be submitted in original and 2 copies to:

U.S. Small Business Administration, Office of Procurement and Grants Management, 409 Third Street, SW, 5th Floor, Washington, DC 20416, ATTN: Mina Bookhard.

XII. Late Submission, Revisions and Withdrawals

1. Any Application received at the Office of Procurement and Grants Management after the exact time specified for receipt will not be considered unless it is received before award is made, AND:

a. It was sent by registered or certified U.S. mail not later than the fifth calendar day before the date specified for receipt of offers (*e.g.*, an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th);

b. It was sent by U.S. mail or hand-carried (including delivery by a commercial carrier) if it is determined by the Government that the late receipt was due primarily to Government mishandling after receipt at the Government installation;

c. It was sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two working days prior to the date specified for receipt of proposals. The term ''working days'' excludes weekends and U.S. Federal holidays;

d. There is acceptable evidence to establish that it was received at OPGM and was under the Government's control prior to the time set for receipt of offers, and the Grants Management Officer determines that accepting the late offer would not unduly delay the grant review process; or

e. It is the only proposal received.

XIII. Unsuccessful Applicants

After a decision has been reached and if your proposal is not successful, you will receive written notification. This written notice will be SBA's *final* response to this program announcement. SBA *will not* provide debriefing sessions if your proposal was not successful.

XIV. Cancellation

SBA reserves the right to cancel this announcement in whole or in part at the Agency's discretion.

XV. Glossary of Terms

• *ADMINISTRATION:* Means the U.S. Small Business Administration (SBA);

• *ADMINISTRATOR:* Means the Administrator of the Small Business Administration;

• *CAPACITY BUILDING SERVICES:* means services provided to an organization or program that is, or is developing as, a microenterprise development organization or program, for the purpose of enhancing its ability to provide training and services to disadvantaged entrepreneurs;

• *COLLABORATIVE:* means two or more nonprofit entities that agree to act jointly as a qualified organization under this part;

• *DISADVANTAGED ENTREPRENEUR,* or *DISADVANTAGED MICROENTREPRENEUR:* means the owner, majority owner, or developer of a microenterprise who is also—

1. A low-income person

2. A very low-income person; or

3. An entrepreneur who lacks adequate access to capital or other resources essential for business success, or, is economically disadvantaged as determined by the Administrator.

• *EMERGING MICROENTERPRISE DEVELOPMENT ORGANIZATION OR PROGRAM:* means a microenterprise development organization or program which has a microenterprise capacity building services component, but has had such a component for less than 4 years at the date of its application for a PRIME grant.

• *GRANTEE:* means a recipient of a grant under the Act.

• *GROUP:* has the same meaning as ''collaborative'' defined above.

• *INDIAN TRIBE:* means any Indian tribe, band, pueblo, nation, or other organized group or community, including any Alaska Native village or regional or village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services the United States provides to Indians because of their status as Indians.

• *INDIAN TRIBE JURISDICTION:* means Indian country, as defined in 18 U.S.C. 1151, and any other lands, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any tribe or individual subject to a restriction by the United States against alienation, and any land held by Alaska Native groups, regional corporations, and village corporations, as defined in or established under the Alaska Native Claims Settlement Act, public domain Indian allotments, and former Indian reservations in the State of Oklahoma.

• *INTERMEDIARY:* means a private, nonprofit entity that seeks to serve qualified microenterprise development organizations and programs;

• *LARGE MICROENTERPRISE DEVELOPMENT ORGANIZATION OR PROGRAM:* means a microenterprise development organization or program with 10 or more full time employees or equivalents, including its executive director, as of the date it files its application with SBA for a PRIME grant.

• *LOCAL COMMUNITY:* means an identifiable area and population constituting a political subdivision of a state.

• *LOW-INCOME PERSON:* means a person having an income, adjusted for family size, of not more than—

(1) for metropolitan areas, the greater of 80 percent of the median income; and

(2) for non-metropolitan areas, the greater of—

(a) 80 percent of the area median income; or

(b) 80 percent of the statewide non-metropolitan area median income;

• *MICROENTREPRENEUR:* means the owner or developer of a microenterprise;

• *MICROENTERPRISE:* means a sole proprietorship, partnership, limited liability corporation or corporation that has fewer than 5 employees, including the owner, and generally lacks access to conventional loans, equity, or other banking services.

• *MICROENTERPRISE DEVELOPMENT ORGANIZATION OR PROGRAM:* means a nonprofit entity, or a program administered by such an entity, including community development corporations or other nonprofit development organizations and social service organizations, that provides services to disadvantaged entrepreneurs.

• *QUALIFIED ORGANIZATION:* means an organization eligible for a PRIME grant that is—

(1) a microenterprise development organization or program as defined above (or a group or collaborative thereof) that has demonstrated a record of delivering microenterprise services to disadvantaged microentrepreneurs;

(2) an intermediary, as defined above;

(3) a microenterprise development organization or program as defined above that is accountable to a local community, working with a State or local government or Indian tribe; or

(4) an Indian tribe acting on its own, if the Indian tribe can certify that no private organization referred to in this definition exists within its jurisdiction.

• *SEVERE CONSTRAINTS ON AVAILABLE SOURCES OF MATCHING FUNDS:* means the documented inability of a qualified organization applying for a PRIME grant to raise matching funds or in-kind resources from non-Federal sources during the 2 years immediately prior to the date of its application because of a lack of or increased scarcity of monetary or in-

kind resources from potential non-Federal sources.

• *SMALL MICROENTERPRISE DEVELOPMENT ORGANIZATION OR PROGRAM:* means a microenterprise development organization or program with less than 10 full time employees or equivalents, including its executive director, as of the date it files its application with SBA for a PRIME grant.

• *TRAINING AND TECHNICAL ASSISTANCE:* means services and support provided to disadvantaged entrepreneurs, such as assistance for the purpose of enhancing business planning, marketing, management, financial management skills, and assistance for the purpose of accessing financial services.

• *VERY LOW INCOME PERSON:* means having an income adjusted for family size of not more than 150 percent of the poverty line (as defined in § 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2), including any revision required by that section).

XVI. Paperwork Reduction Act (44 U.S.C. Ch. 35)

The information being requested in this Program Announcement is needed to evaluate applicants and ensure that awards are made in furtherance of the PRIME program's objectives. The information will be used to grant awards to provide training and technical assistance to disadvantaged microentrepreneurs. Applicants' responses to the data collection requirements are necessary for them to receive a benefit under the Prime Program. The information provided by applicants will be kept confidential to the extent required by law. Applicants are not required to respond to the Program Announcement unless it displays a currently valid OMB number. SBA estimates it will take applicants 80 hours to respond.

XVII. Privacy Act (5 U.S.C. § 552A)

Any person can request to see or get copies of any personal information that SBA has in the requestor's file, when that file is retrieved by individual identifiers, such as name or social security number. Requests for information about another party may be denied unless SBA has the written permission of the individual to release the information to the requestor or unless the information is subject to disclosure under the Freedom of Information Act (FOIA).

Note: Any person concerned with the collection, use and disclosure of information, under the Privacy Act may contact the Chief, Freedom of Information/Privacy Act Office, U.S. Small Business Administration, Suite 5900, 409 Third Street, SW, Washington, DC 20416, for information about the Agency's procedures relating to the Privacy Act and FOIA.

DATE: _____

TO: Applicants

FROM: Office of Procurement and Grants Management (OPGM)

SUBJECT: Program Announcement No. PRIME 01–2, Program for Investment in Microenterprise Act, (''PRIME'') to Provide Microenterprise Development Organizations (MDOs) Capacity Building Services.

The U.S. Small Business Administration plans to issue Federal grant awards to qualified organizations under PRIME to provide capacity building services to microenterprise development organizations and organizations interested in becoming microenterprise development organizations. These organizations include: Non-profit microenterprise development organizations or programs; intermediaries (as defined); other microenterprise development organizations or programs (as defined) that are accountable to a local community, working in conjunction with a State or local government or Indian tribe; or Indian tribes acting on their own, with proper certification that no other qualified organization exists within their jurisdiction.

You are invited to submit an application, an original and two (2) copies, in response to Program Announcement No. PRIME 01–2. You are required to bind the cost proposal and technical proposal separately. Prepare the technical and cost proposals in single-spaced, 12-pt. font format. The technical proposal must not to exceed 45 pages, excluding exhibits and appendices. The Government will not return proposals, but will retain them for a limited period of time.

The closing date for the program announcement is _____, 4 p.m., Eastern Standard Time. Address your applications/proposal to the U.S. Small Business Administration, Office of Procurement and Grants Management (OPGM), 409 3rd Street, SW, 5th Floor, Washington, DC 20416, Attention: Mina Bookhard, Agreement Officer. If hand carried, deliver the application/proposal to Mina Bookhard, or her designee, at the above address. Deliveries to other locations will be considered late if not received in OPGM at the U.S. Small Business Administration by 4 p.m. on _____. Please place the following notation in the lower left corner of the sealed envelope or package:

THIS IS A SEALED OFFER. DO NOT OPEN. STAMP THE DATE AND TIME RECEIVED ON THE ENVELOPE. THE ENCLOSED APPLICATION IS IN RESPONSE TO PROGRAM ANNOUNCEMENT NUMBER PRIME 01–2, DUE _____ AT 4 P.M., EASTERN STANDARD TIME, AT SBA's OFFICE OF PROCUREMENT & GRANTS MANAGEMENT.

Applicants will be required to meet the standards for financial management systems as prescribed in the Office of Management and Budget's (OMB) Circular A–110, Subpart C, sections .21 through .28, and 13 CFR Part 143.

Questions concerning this program announcement should be directed to Warren Boyd at (202) 205–7534. Questions about budget or funding matters should be directed to Mina Bookhard, at (202) 205–7080.

Sincerely,

Sharon Gurley
Director, Office of Procurement and Grants Management

OFFICE OF FINANCIAL ASSISTANCE PROGRAM ANNOUNCEMENT

PROGRAM FOR INVESTMENT IN MICROENTREPRENEURS ACT, (''PRIME'')

TO PROVIDE CAPACITY BUILDING SERVICES TO NEW, EMERGING, AND EXISTING MICROENTERPRISE DEVELOPMENT ORGANIZATIONS

FISCAL YEAR 2001

U.S. SMALL BUSINESS ADMINISTRATION

OFFICE OF FINANCIAL ASSISTANCE

OPENING DATE: _____

CLOSING DATE: _____

ANNOUNCEMENT NO: PRIME 01–

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I. Legislation Purpose

The Program for Investment in Microentrepreneurs Act of 1999 (Pub. L. 106–102) became law on November 12, 1999. 15 U.S.C. 6901 *et seq.* (''PRIME'' or ''the Act). The Act authorizes the Administrator of the U.S. Small Business Administration (SBA) to establish a microenterprise training and technical assistance program for disadvantaged microentrepreneurs and to provide training and capacity building grant program to microenterprise development organizations (MDOs). Additionally, the Act authorizes research and development of best practices for microenterprise development and technical assistance programs for disadvantaged entrepreneurs and other activities as the Administrator of SBA determines are consistent with the Act. PRIME has several purposes for which SBA will issue separate program announcements soliciting applications geared toward a particular legislative purpose. Program Announcements called for under the Act solicit, from eligible organizations, applications for grant funding to be used to carry out the purposes of the Act as follows:

Program Announcement No. PRIME 01–1 calls for applications from qualified organizations wishing to obtain grant funding for the purpose of providing training and technical assistance programs for disadvantaged microentrepreneurs.

Program Announcement No. PRIME 01–2 calls for applications from qualified organizations wishing to obtain grant funding for the purpose of providing training and capacity building services to microenterprise development organizations and programs and groups of such organizations to assist them in developing microenterprise training and services.

Program Announcement No. PRIME 01–3 calls for applications from qualified organizations wishing to obtain grant funding for the purpose of pursuing research and developing best practices in the field of microenterprise and technical assistance programs for disadvantaged microentrepreneurs.

PRIME 01–2 solicits proposals from qualified organizations wishing to obtain grant funding for the purpose of providing Training and Capacity Building. These PRIME grants will enable MDOs to improve, expand, and/or enhance the number of MDOs providing training and technical assistance programs for disadvantaged microentrepreneurs.

SBA will use 15 percent of available PRIME funds for grants that provide Training and Capacity Building services. Grants awarded under this program announcement will be for a minimum of $50,000 with no one grant exceeding $250,000 or 10% of the total appropriated, whichever is less.

II. Introduction

Congress recognized that many disadvantaged microentrepreneurs lack sufficient training and education to gain access to capital to establish and expand their own small businesses. It enacted PRIME to augment training and technical assistance under the Small Business Act and other legislation. PRIME grants to qualified MDOs will help meet more training and technical assistance needs for disadvantaged microentrepreneurs, thereby encouraging entrepreneurship and community development.

Many low income and very-low income entrepreneurs need training and technical assistance to start, operate, or expand their businesses. In order to achieve measurable success in the effort to providing direct training and technical assistance to low and very low income individuals, another goal of the PRIME Act is to expand and build the capacity of microenterprise development organizations (MDOs) to provide training and technical assistance to the microentrepreneur.

For every business started or microloan made, a number of entrepreneurs are preparing themselves for a business start. A generally accepted assumption in the microenterprise industry is that it takes approximately 10 microentrepreneurs for every microenterprise started or booked. The cost of training is substantial because those at the entry-level stage of development typically require the greatest amount of dedicated advice and guidance, over an extended period of time, to achieve the highest rates of success. Funding is scarce relative to the need. The microenterprise industry has found the technical assistance-funding gap to be a nationwide condition, particularly in the very-low income sector.

The Program for Investment in Microentrepreneurs (PRIME) authorizes SBA to make grants to ''qualified organizations'' to fund capacity building services to MDOs. The SBA will also make grants to provide training and technical assistance to low and very low income individuals, fund research and development of ''best practices'' in microenterprise development and technical assistance programs, and to fund other undertakings consistent with these purposes. The program requires that grantees match a portion of the SBA's funds with funds from other sources.

The PRIME grant program should be viewed as a system of tiers. Primary MDOs (PMDOs) are those principally involved in the provision of financial and/or technical assistance services to individual clients, entrepreneurs, and microbusiness owners. Secondary MDOs (SMDOs) are those primarily involved in the training and capacity building of PMDOs through professional development, organizational development, and/or coordination of funds and services within a specific geographic area. While there may be instances where PMDO and SMDO activity types overlap, the distinction between the two types of organizations lies in the major focus of their respective activity. Training and Capacity Building may be viewed as separate and distinct activities, or may be presented as a single, integrated package of services. Training is best described as a classroom or course of study approach and will generally involve coursework, seminars, and other types of professional development activities designed to address a larger audience. Capacity Building, which may include a training aspect, will involve organizational development, site visits, individualized strategic planning, and goal-setting specifically designed to assist a single MDO (but ideally transferable to other MDOs). Capacity Building may also include, as indicated above, the coordination of activities, funds, and information for MDO networks or geographically related groups. Organizations applying for funding under this Program Announcement, PRIME–01–2, should remain cognizant of the information provided above as they plan and apply for funding.

III. Program Overview

1. *Project Name:* Program for Investment in Microentrepreneurs (PRIME).

2. *Purpose:* Provide Training and Capacity Building Services to MDOs, and organizations in the process of becoming MDOs, to enhance their ability to provide training and technical assistance to low, very-low income, and otherwise disadvantaged entrepreneurs.

3. *Federal Catalog Number:* 59.049

4. *Authority:* The Program for Investment in Microentrepreneurs Act

of 1999, ''PRIME'', Pub. L. 106–102, 15 U.S.C. § 6901 *et seq.*

5. *Funding Instrument:* Grant

6. *Funding:* Funding is subject to availability and the requirements enumerated under the Act.

7. *Funding Range:* Target award amounts will be a minimum of $50,000. Award amounts may vary, depending upon availability of funds (and performance for option years); however, no single person may receive more than $250,000 or 10 percent of the total funds made available for this program in a single fiscal year, whichever is less. In general, match is required, although SBA may reduce or eliminate the required match in certain circumstances (up to a program limit of 10 percent).

8. *Number of Awards:* SBA anticipates issuing multiple awards under this Announcement. The number may vary, based on the pool of qualified applicants and the amount of available funds. At least 15% of the funds available for grants under PRIME must be awarded under this Program Announcement.

9. *Targeted assistance:* A minimum of 50% of the funds available for grants under the PRIME Act must be used to benefit very low income persons (as defined in this document), including those residing on Indian reservations.

10. *Closing Time and Date for the Submission of Applications:* _____ at 4 p.m. Eastern Daylight Time.

11. *Project Starting Date:* _____ (estimated).

12. *Project Duration:* The period performance for this grant is one base year with 4 twelve-month options subject to availability of funds and continued program authorization. The total possible period of performance is 5 years. Each option year will constitute a separate budget period. The project recipient's satisfactory performance will be one of the key factors in determining the award of an option year. Failure to secure the required annual non-Federal contribution during any project year may jeopardize continued option year funding.

13. *Proposal Evaluation:* Applications will first be screened to determine if the applicant meets certain mandatory eligibility requirements. Applicants that do not document in their application that they meet these requirements will not be evaluated by SBA for participation in the Prime Program. In addition, applications that are incomplete, illegible, or unreadable, in whole or in part, will be deemed incomplete and will not be evaluated.

Eligible proposals will be scored by an Objective Review Committee (ORC) based on evaluation criteria stated in this program announcement. The ORC will consist of SBA officials and may include Federal Officials from other agencies. Microenterprise Development Branch staff will review the ORC evaluations, the ORC's summary report on each applicant, and the applicant's proposals to determine the final scoring of award recipients. SBA may ask applicants for clarification on the technical and cost aspects of the proposals. Such clarifications must not be construed as a commitment to fund the proposed effort.

14. *Points of Contact:* Questions concerning the technical aspects of this Program Announcement should be directed to the Microenterprise Development Branch at (202) 205–7534. However, due to the competitive process, SBA will be unable to assist with answers to specific questions regarding individual proposals or requests for assistance in completing proposals.

Questions concerning budget or funding of this Grant should be directed to Mina Bookhard at (202) 205–6621.

15. *Award Notification:* All applicants will receive a written notification relative to selection of award recipients. This written notice will be SBA's *final* response to this Program Announcement. SBA will not provide debriefing sessions if your proposal was not successful.

16. *Cancellation:* SBA reserves the right to cancel this Program Announcement in whole or in part at the Agency's discretion.

IV. Eligible Applicants for This Grant

An organization will be considered eligible for funding for the purpose of providing training and capacity building services to MDOs, or organizations in the process of becoming MDOs, if it is:

1. A microenterprise development organization or program (or group or collaborative thereof) that has a demonstrated record of delivering microenterprise services to disadvantaged entrepreneurs, OR

2. An intermediary (as defined in this document) which has experience in delivering technical assistance to disadvantaged entrepreneurs, OR

3. A microenterprise development organization or program (as defined in this document) that is accountable to a local community, working in conjunction with a State or local government or Indian tribe, OR

4. An Indian tribe acting on its own, if the Indian tribe can certify that no private organization or program referred to in this paragraph exists within its jurisdiction.

An eligible applicant for a PRIME capacity building grant must provide documentation in its application demonstrating that it falls within one of the above categories of qualified organizations. Such documentation should include but is not limited to:

1. A copy of your organization's IRS tax-exempt certificate including the IRS code under which your organization is considered non-profit;

2. Certification by your Secretary of State that your organization is legally allowed to do business in the State and a copy of your organization's articles of incorporation and by-laws;

3. For category 4 in the preceding paragraph, written certification from a duly authorized person that no other qualified organization (*i.e.* private organization or program as defined in categories 1–3 above) exists within its jurisdiction; and

4. Financial statements for the past 3 years. If your organization has been in business for less than 3 years provide your year end financial statements for those years completed and a financial statement not less than 90 days old.

SBA will not evaluate applications that do not meet these requirements. SBA may not screen applicants for eligibility until after the Closing Date for application acceptance. SBA will attempt to notify applicants of ineligible proposals as soon as practicable. However, SBA is under no obligation to notify ineligible applicants before the Closing Date. SBA strongly urges all applicants to ensure all eligibility requirements are met and documented before sending an application to SBA.

V. Ineligible Applicants for This Grant

Regardless of the satisfactory submission of information called for in Paragraph IV, above, the following applicants will automatically be considered ineligible and their applications will not be evaluated:

1. Any organization with an unresolved audit by any Federal agency.

2. Any organization suspended or debarred from receiving grants from any Federal agency or otherwise excluded from Federal procurement or non-procurement programs.

3. Any organization which has defaulted on an obligation to the United States.

VI. General Information

1. Definitions

Throughout this Program Announcement specific terminology may be used, as defined in the Act and the accompanying rule (13 CFR part 119) published on _____. The

definitions are contained in a glossary of terms located at the end of this document in Section XV.

2. Collaborative Applications

a. If you participate in a collaborative (as defined in this document), all entities who are party to the collaborative must separately meet the statutory and eligibility requirements in order to apply as a collaborative.

b. Applications from collaboratives must name the primary liaison with the Federal government and include a copy of the collaborative agreement outlining responsibilities of each partner organization. An authorized representative from each organization must sign the agreement. The primary liaison will be responsible for coordinating reporting and requests for funding.

3. Program Income

All program income as defined in OMB Circular A–110, and OMB A–122 must be reported on financial reports submitted to SBA and added to funds committed to the project by SBA and recipient organizations. Program income may only be used to further eligible program objectives.

4. Cost Principles

a. *General:* All costs approved for a successful applicant must meet the tests of necessity, reasonableness, allowability and allocability in accordance with the cost principles applicable to this award. All proposed costs are subject to pre-award audit. Grantees are responsible to ensure proper management and financial accountability of Federal funds to preclude future cost disallowances. Payment will be made by reimbursement or advance payments as described in the grant award document and applicable OMB Circulars.

b. *Carryover Policy:* The grantee may request approval to use unexpended funds in the next budget period. This is permissible if funds are to be used for a non-severable, non-recurring project or activity within the scope of the PRIME program. Non-severable means a project in its entirety that cannot be subdivided. The request for using unexpended funds in the next budget period must include the following:

(1) SF 424, budget pages, and justification;

(2) Explanation of why the funds were not expended during the period in which they were awarded; and

(3) Evidence of match. The match requirement for funds carried over to the next budget period can be met by using any excess of matching funds from the current budget period, new matching funds, or a combination of both.

The request must be made no later than 60 days before the end of the budget/project period or the de-obligation process will begin. Approved requests will require the issuance of a revised Notice of Award. Expenditures for funds carried over to the next budget period must be tracked separately.

5. Publications/Websites

Any publications or websites developed under this grant must be submitted to SBA for prior review and approval. SBA will have an unlimited license to use data and written materials generated under this grant award, whether or not the materials are copyrighted. Any publications resulting from this project must include the following acknowledgement of support, whether copyrighted or not, in legible, easily readable print:

> This grant is partially funded by the U.S. Small Business Administration. SBA's funding is not an endorsement of any products, opinions, or services. All SBA funded programs are extended to the public on a nondiscriminatory basis.

The grant recipient may not use the U.S. Small Business Administration name or logo for the endorsement of any services, products, or merchandise under this award.

The SBA logo may appear on prominent webpages of Internet sites that are related to this project, but must appear with the above disclaimer in legible, easily readable print and acknowledgement of support in close physical proximity (within 2 inches) next to it.

6. Reports

a. General Reporting

The selected grantees will be required to submit the reports as outlined below. Participants must agree to cooperate with SBA in the collection and retention of data required by this agency. Your ability to meet reporting requirements must be addressed in the Technical Proposal.

Payments may be withheld if reports are not submitted within the required time frame or if the quality of reports is considered inadequate.

b. Performance Reports:

Quarterly performance reports, unless otherwise specified, must contain a summary of activity for the reporting period using the following format:

1. A comparison of actual accomplishments to the estimated milestones established in the proposal and/or subsequent grant agreement.

2. A discussion of accomplished milestones and reasons for slippage in those cases where milestones are not met. Where milestones were not met, a plan of action must be provided to overcome these slippages or a detailed statement of how the program will better serve MDOs, and organizations in the process of becoming MDOs, if the milestones are revised.

3. Evidence of the amount of funding expended to the benefit of very-low income program clients.

4. Information relating to actual financial expenditures of budgeted cost categories versus the estimated budget award, including an explanation of all cost overruns, if any, by budgeted cost category. Financial data furnished in this report is from a manager's standpoint and is in addition to that furnished in the financial reports cited below.

5. Other pertinent information, including any significant accomplishments or milestones of special significance that have been met.

6. Because SBA is interested in the actual outcome of capacity building services provided under the PRIME Program, Client MDO Progress Reports will be required as part of the quarterly performance reports. As such, grantees will be required to compile, maintain, and submit data regarding each client as follows:

A. At the start of the training relationship:

- Client identification information (location, urban, rural, tribal)
- Level of operating budget
- Total number of employees, excluding volunteers,
- Average number of employee hours used to provide training and technical assistance to disadvantaged entrepreneurs
- Average number of volunteer hours used per month for same purpose
- Number of clients served during each of two years prior to the start of the relationship and an indication of the number and percent of those clients that were low- or very-low income individuals
- The goal of the capacity building project or activity

B. Follow-up:

- Changes in the operating budget of the client
- Changes in human resource utilization patterns (employees and volunteers)
- Changes in the numbers and percentages of end-user client service data as called for above
- Status of training in terms of the stated goal.

Follow-up data should be collected on client MDOs on the six, twelve, and

eighteen-month anniversary of the beginning of the capacity building relationship. It is understood that new goals may be stated at the beginning of a new project or specific activity. This understanding is to be built into the grantee's reporting structure.

Quarterly reports will be due no later than:

(a) January 15 for the period ending December 31;

(b) April 15 for the period ending March 31;

(c) July 15 for the period ending June 30; and

(d) October 15 for the period ending September 30.

c. Financial Reports

1. Financial Status Report Forms must be submitted every quarter with the performance reports. Reports must include the SF 269, Financial Status Report, and the SF 272, Federal Cash Transactions Report.

2. The year-end report must include a cost breakdown of actual expenditures and costs incurred by line item. Participants will also be required to submit the SBA Form 2069, Detailed Actual Expenditures for Period Covered by Request, with the final Standard Form 269.

3. In addition, grantees will be required to submit audited annual financial statements, if available, or annual financial statements prepared by a licensed, independent public accountant, within 120 days of the end of the grantee's fiscal year period.

SBA may withhold payment of advances or reimbursements if reports are not received or are regarded as inadequate.

SBA may, at its discretion, reduce any reporting requirements to semi-annually as it deems appropriate. SBA will notify participants if it decides to take such action.

7. Match Requirements

In general, funds awarded under the PRIME Program will require a non-Federal match of not less than 50% of each dollar awarded. Matching funds may come from fees, non-Federal grants, gifts, funds from loan sources, and in-kind resources. After the initial grant, grant awards for the following option years will be made in declining amounts, declining by 20% of the initial grant amount in each successive year.

Exception: In the case of an applicant with severe constraints on available sources of matching funds, SBA may reduce or eliminate the 50% match requirement on a case by case basis. Any reductions or eliminations must not exceed 10% of the aggregate of all PRIME grant funds made available by SBA in any fiscal year.

Organizations seeking to receive a reduction or elimination of the matching fund requirement must include such a request (as a cover letter) with their proposal, and include justification and supporting documentation for their request. Submission of a request will not automatically guarantee that an exception, in whole or in part, will be granted. Rather, it will alert SBA to the applicant's desire to receive an exception.

8. Fundraising Not Allowable Expense

Expenditures for fundraising activities are not allowable costs under this grant. Applicants must be able to raise matching funds without the assistance of grant funds. The applicant must demonstrate that it has adequate fundraising resources to obtain required non-Federal matching funds to perform the project.

9. Subgrants

An organization selected to receive a grant under the PRIME Program may provide sub-grants to qualified small and emerging MDOs solely for the purpose of having them assist with Training and Capacity Building services to other MDOs. Applicants wishing to provide sub-grants as a part of their implementation plan should include detailed information regarding same in their Technical Proposal. An applicant that wants to make subgrants using PRIME grant funds must receive written approval from SBA prior to making subgrants. The applicant must identify the subgrantee(s) and describe in detail what the subgrantee(s) will do to help the grantee implement its proposal. An applicant must submit information to SBA demonstrating that, through the subgrantee(s), the grantee's program will:

(1) Provide expanded services to the community,

(2) Provide a method by which one or more previously unserved communities will gain access to the program, or

(3) Provide other specific benefits to the clients, such as specialized training, expanded schedules of operation, or other benefits.

If an applicant has identified potential subgrantee(s) at the time it submits an application for a PRIME grant, the applicant must include the information requested in the paragraph above in the application. Otherwise, the applicant or grantee may submit the requested information at such time that approvals for subgrantee(s) are requested.

The total amount of money subgranted by the grantee must not exceed 50% of the amount of the PRIME grant. A maximum of 7.5% of the funds awarded may be used by the grantee for administrative expenses in connection with the making of subgrants.

10. Subcontracts

Any and all subcontracts awarded under this grant must be approved by SBA in advance in writing and must not exceed 50% of the amount of the PRIME grant.

11. Diversity

In making grants under this Program Announcement, SBA will ensure that grant recipients include both large and small microenterprise organizations, serving urban, rural and Indian tribal communities and diverse populations.

12. Prohibition on Preferential Consideration of Certain SBA Program Participants

In making grants under this Program Announcement, SBA will not give preferential consideration to an applicant that is a participant in the program established under section 7(m) of the Small Business Act.

VII. OMB Uniform Administrative Requirements and Cost Principles

The Prime Grant Notice of Award incorporates by reference all applicable OMB Circulars, including:

1. OMB Circular A–21, ''Cost Principles for Educational Institutions,'' containing cost principles for educational institutions;

2. OMB Circular A–87 ''Cost Principles for State, Local, and Indian Tribal Governments,'' containing cost principles for State, local governments, and federally recognized Indian tribal governments.

3. OMB Circular A–110, ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations,'' containing administrative requirements;

4. OMB Circular A–122, ''Cost Principles for Non-Profit Organizations,'' containing cost principles for non-profits; and

5. OMB Circular A–133, ''Audits of States, Local Governments, and Non-Profit Organizations,'' concerning audits.

Current versions of OMB Circulars are available from the Office of Management and Budget's website. The address is: *www.whitehouse.gov/WH/EOP/OMB/html/circular.html.*

VIII. Proposal Instructions and Evaluation Criteria

The technical and cost proposals must be bound separately. The technical proposal must be single-spaced and not exceed 45 pages, excluding exhibits and appendices. Prepare your proposal using the following outline.

1. APPLICATION FORMAT

A. Technical Proposal

Section 1. Eligibility Requirements (not to exceed 5 pages)

In this section the applicant must prove that it falls within one of the four categories of qualified organizations. (See Section IV)

Applicants are reminded to include documentation of the mandatory eligibility requirements in their technical narrative. Failure to provide the mandatory eligibility documentation will result in disqualification of the application, and the application will not be evaluated. In addition, incomplete or illegible (in whole or in part) applications will not be evaluated.

Section 2. Applicant Experience (not to exceed 15 pages)

Applicant experience includes information regarding current and past performance in providing training and capacity building services to new, emerging, and existing MDOs.

In this section, the applicant should discuss the items delineated below. To the extent possible, the applicant should provide internal statistical data to document its past experience and illustrate current activities.

1. An understanding of the microentrepreneur and MDO communities and the needs of disadvantaged entrepreneurs.

2. The applicant's existing and historical capacity building services to MDOs. This discussion should include a detailed description of the programmatic information as to the activities and services offered to MDOs with specific descriptions of the extent to which such services have improved the operations of client MDOs and assisted MDOs in reaching low and very low income individuals.

3. Provide a list of grants and or contracts similar in scope to the grant for which you are applying. Specifically provide the name of, if any, any Federal, or non-Federal, agency(ies) or private sector foundations or organizations providing funding, the grant or contract number, a short summary of services provided under each grant, and the period(s) of performance. Include in each summary the name and contact information (phone number and E-mail address) of the person providing oversight on each grant or contract.

Section 3. Institutional Capacity (not to exceed 5 pages)

This section should include the following:

1. Personnel Qualifications and Internal Structure

- You must have, or exhibit the ability to obtain, personnel who are qualified to meet the goals of providing technical assistance under this grant. Provide resumes of personnel key to your organization's participation in the PRIME Program. The resumes should clearly present personnel's qualifications relative to this particular work. Special mention should be made of relevant experience. Personnel indicated must demonstrate knowledge of business development, business structures, business planning, marketing, business management, financial management, and training and counseling.
- Organizational chart for all proposed full-time and part-time project staff and the amount of time each will devote to the project. The Project Director must be a full time employee of the organization; however, the Project Director does not have to be dedicated solely to this activity. The Project Director (and other federally funded staff positions) must not engage in fundraising activities using Federal funds provided under this grant.
- A description of the role of subcontractors, subgrantees and/or outside consultants.
- A description of at least one staff or consultant function to handle on-going program data collection and electronic reporting to SBA.
- A description of whom will be responsible for financial record keeping on the receipt and expenditure of program funds.

2. Data Collection and Maintenance Capacity

- Describe your organization's current data collection and management system. If applying as a group or collaborative, describe how data management systems will be integrated for an inter-organizational uniform approach to data gathering and reporting, as well as how these capabilities will or will not be integrated for training MDOs.
- Provide your organization's computer capacities, if any, and the software used. Indicate whether or not your organization is connected to the Internet and, if not, delineate plans to become connected. The applicant should indicate its level of willingness/capability to report data via the Internet as well as how funds received under this grant may help the applicant accomplish its electronic management, communication, and reporting goals.
- Describe your organization's internal systems of checks and balances in terms of financial, data collection, and reporting systems. If applying as a group or collaborative, also describe the plan for inter-organizational checks and balances in terms of those systems. Also indicate which member of the group or collaborative will be responsible for coordination and submission of data and reports, and how the collaborative will ensure that this responsibility will be fully implemented.

Section 4. Program Narrative (not to exceed 15 pages)

In this section, each applicant must describe the following:

1. Its management plan to provide capacity building and training services to MDOs. This plan should include but not be limited to long and short term training, counseling and technical assistance.

2. Its outreach and delivery plan. The plan should include, but not necessarily be limited to:

- A description of the types of client MDOs your organization plans to target including whether or not those client organizations serve very-low income populations
- A demonstration of the need for the planned services in terms of both the anticipated client base and the end user of the client MDOs' services;
- Strategies to be used for reaching your scheduling and delivery goals;
- Methods by which your organization will incorporate outside resources into the plan; and,
- A description of any planned or existing strategic alliances and partnerships with state and local entities (public or private) and how these alliances assist, or will assist, your organization in providing capacity building services to client MDOs.

Section 6. Timeline/Milestones (not to exceed 5 pages)

In this section the applicant must include a timeline with milestones covering the 12-month grant period. Milestones should clearly illustrate the applicant's goals for delivery of capacity building services in terms of the number and types of projected clients, projected activities, and projected use of funds.

Section 7. Supporting Documentation

In this section the applicant should provide any necessary documentation to

support its proposal, including but not limited to the following documents:

1. A statement signed by your Executive Director (or an equivalent duly authorized person), authorizing SBA to make inquiries to other Federal Agencies as to the performance capabilities of your organization.

2. A copy of your organization's IRS tax exempt certificate, including the IRS code under which your organization is considered non-profit.

3. Certification by your Secretary of State that your organization is legally allowed to do business in the State and a copy of your organization's articles of incorporation and by-laws.

4. A copy of your organization's financial statements for the last 3 years. If your organization has not been in business for 3 years, submit the most recent full-year financial statements and a copy of your organizations Year-to-Date balance sheet.

5. A summary of the training and technical assistance provided to date (limit to 3 pages).

6. Resumes and reference information for personnel key to the delivery of technical assistance services to date.

7. An organizational chart, if you are applying as a group, or plan to use sub-contractors, include a second organizational chart that shows how the members of the group will interact and collaborate and/or how the sub-contractors will fit into the work flow plan.

B. Cost Proposal

The cost proposal must include the application cover sheet, budget information, assurances and certifications. Additional information on how to organize the proposal is provided on page 21, ''Preparing Your Budget.'' The applicant's Cost Proposal will be evaluated in terms of the quality and effectiveness of the proposed capacity building services and impact as identified in item 3 of the evaluation factors.

2. Evaluation Factors

Capacity Building awards will be competed among a single pool of applicants. The Technical Proposal will be evaluated in terms of the following evaluation criteria. The maximum number of points available under each criterion will be as follows:

(a) Institutional Capability (total of 90 points) The following factors will be considered under this criteria:

(1) Organizational structure, financial stability, and financial management systems (20)

(2) Personnel (30)

(3) Electronic communication or potential for same (20)

(4) Data collection and reporting capability (20)

(b) Past performance and history of providing capacity building services to Microenterprise Development Organizations (MDOs) (30)

(c) Management plan for proposed training and capacity building assistance, including outreach and delivery (total of 80 points)

The following factors will be considered under this criteria:

(1) Proposed training and capacity building assistance to client MDOs and services to low-and very-low income microentrepreneurs (30)

(2) Service plan and delivery (30)

(3) Performance and outcome measurement tools (20)

The total number of points an organization may attain under this evaluation system is 200.

As indicated above, applications will be reviewed for technical merit using the evaluation factors listed. Included in the evaluation processes will be qualitative and quantitative analyses of:

a. The applicant's organizational structure, financial stability, financial management systems, personnel capacity, and electronic communication capabilities (or potential for same). Additional evaluations will be made on the data collection capabilities, reporting capacities, and ability to account for performance.

b. The applicant's history of providing capacity building services to MDOs, as an indication of the organization's understanding of the goals and purposes of capacity building, its historical effectiveness with the microenterprise development industry, and its ability to provide quality services to the targeted market. In addition, patterns of program growth, outcomes of training, types of services provided, delivery systems used, the number and types of clients served, and the successes realized within the client's organizational goals.

c. The applicants projected impact on client MDOs, and on their ability to serve or improve services to low- and very-low income microentrepreneurs.

d. The value of the proposed activity to the enhancement of the MDO community and the applicant's ability to attain the stated goals of the proposal. In addition, the transferability and replicability of the project will be considered.

IX. Option Year Funding

Applicants will prepare application cover sheets (SF Form 424) and budgets for each of the 5 budget periods consisting of 12 months each. Applicants are advised that the performance period for specific awards made under this announcement may consist of one base year with up to 4 twelve-month option years. The project periods may consist of up to 5 twelve-month budget periods. Each additional twelve-month budget period beyond the original base year may be exercised at the discretion of the Government. Among the factors involved in deciding whether to exercise an option are the availability of funds, continuing program authorization, satisfactory performance of the applicant, and the determination that continued funding would be in the best interest of the Government.

After the initial grant, grant awards for the option years will be made in declining amounts, declining by 20 percent of the initial grant amount in each successive year

X. Preparing Your Budget

INSTRUCTIONS FOR STANDARD FORM 424 (APPLICATION FOR FEDERAL ASSISTANCE)

Standard Form 424, Application of Federal Assistance, will be found beginning at page A–1 of this announcement. This guidance supplements that contained on the reverse side of the form.

Item 1. Self-explanatory

Item 2. Refer to instructions on reverse of form

Item 3. Refer to instructions on reverse of form

Item 4. Leave Blank

Item 5. Refer to instructions on reverse of form

Item 6. Refer to instructions on reverse of form

Item 7. Refer to instructions on reverse of form

Item 8. Enter: ''new''

Item 9. Enter: ''U.S. Small Business Administration''

Item 10. Enter: 59.049 Program for Investment for Microentrepreneurs (PRIME)

Item 11. Refer to instructions on reverse of form

Item 12. Refer to instructions on reverse of form

Item 13. Refer to instructions on reverse of form

Item 14. Refer to instructions on reverse of form

Item 15. Refer to instructions on reverse of form

Item 16. Enter: Check ''b.'' This program is not covered by E.O. 12372.

Item 17. Refer to instructions on reverse of form

Item 18. Refer to instructions on reverse of form

INSTRUCTIONS FOR STANDARD FORM 424A (BUDGET INFORMATION)

Budget information is found on pages *A–1 through A–11*

The budget is the applicant's estimate of the total cost of performing the project or activity for which grant support is requested. The budget is to be based upon the cost of performing the project, including Federal and private sources. All proposed costs reflected in the budget must be necessary to the project, reasonable and otherwise allowable under applicable cost principles and Agency policies. All costs must be justified and itemized by unit cost on the Budget Worksheets (p. A–3).

Section A—Budget Summary
Column (A): Enter ''PRIME 01–2''
Column (B): Enter the Catalog of Federal Domestic Assistance Number 59.049
Section B—Budget Categories

Amounts entered by budget category in this section are for summary purposes only. Itemization and justification of specific needs by budget category are to be shown under line 21, Section F.

Line 6.a.–6.h. The budget amounts must reflect the total requirements for funds regardless of the source of funds. All amounts entered in this section are to be expressed in terms of whole dollars only after completing the requirements of Section F.

Line 6.j. Indirect costs are those costs related to the project that are not included as direct costs in a. through h.

Section C—Non-Federal Resources

Refer to instructions on reverse of form.

Section D—Forecasted Cash Needs

Refer to instructions on reverse of form.

Section E—Budget Estimates of Federal Funds Needed for Balance of the Project

Refer to instructions on reverse of form.

Section F—Other Budget Information

Line 21, Direct Charges: Identify and explain all items or categories under Section B in accordance with the instructions set forth below. The itemization must reflect the total requirements for funding from Federal and non-Federal sources. In most instances, Line 21 does not provide sufficient space to reflect all of the necessary information. Budget Worksheets are enclosed for your convenience. You may use these worksheets for the detailed budget information listed below or a reasonable facsimile; but each budget line item pertinent to your submission MUST ALSO be completed on the application. Please show a complete breakdown of all cost elements summarized in Section B on a separate sheet. Do not list on Line 21 any items included in the indirect expenses entered on Line 22 below.

a. Personnel: List the name, title, salary and estimated amount of time for each employee who will be assigned to this project. Note that fees, expenses, and estimated amount of time for outside consultants should be included in f., Contractual. The estimated performance time for outside consultants is not to exceed 50% of the total amount of the grant. Resumes of all personnel assigned to this effort must be included in the application.

b. Fringe Benefits: Leave blank if fringe benefits applicable to direct salaries and wages are treated as part of indirect costs in the indirect cost rate negotiation agreement. If your organization does not have a federally negotiated fringe benefit package, list each component included as a fringe benefit.

c. Travel: Reimbursement will be made based on incurred cost. Estimates should be based on knowledge of the geographical area of small business locations. Reimbursement to contractors or volunteers will not be made for time in travel to and from the client's location. Supporting data should include numbers of trips anticipated, costs per trip per person, destinations proposed, modes of transportation, and related subsistence expenses.

Line 22 Indirect Charges:

(Attach Budget Worksheets or reasonable facsimile if sufficient space is not provided.)

Enter the indirect cost rate, date, and agency that issued rate.

If an indirect cost rate is not established, itemize elements and costs of overhead and G&A (General and Administrative) expense categories relative to the performance of this project.

XI. Assembly and Mailing Instructions

1. Please indicate the following information on the front of your return envelope:

a. Your organization's name and return address including zip code in the upper left-hand corner of the return envelope.

b. Place the following notation in the lower left-hand corner of the sealed envelope.

THIS IS A SEALED OFFER. DO NOT OPEN. STAMP THE DATE AND TIME RECEIVED ON THE ENVELOPE. THIS PROPOSAL IS IN RESPONSE TO PROGRAM ANNOUNCEMENT NUMBER,____ DUE, ____ 2000, AT 4:00 P.M., EASTERN STANDARD TIME, AT THE U.S. SMALL BUSINESS ADMINISTRATION, OFFICE OF PROCUREMENT & GRANTS MANAGEMENT, 409 3RD STREET, SW, 5TH FLOOR, WASHINGTON, DC 20416, ATTENTION: MINA BOOKHARD.

2. *Application.* Please submit an original and 2 copies of the pages described below in items a and b. They are part of the Announcement and should be completed and submitted with an original and 2 copies of your proposal:

a. The Federal Assistance Application (Standard Form 424), including the cost and technical proposals, and related budgetary data.

b. Appendix B, Assurances and Certifications (with appropriate signature).

3. To facilitate review and processing of the proposals, your submission must be arranged, as follows, in two separately bound parts:

a. Part I: COST PROPOSAL—This part is to be comprised of the Application, the Budget Information, and the Assurances and Certifications. The material identified as Part I must be bound separately from the Technical Proposal. DO NOT include any technical information in Part I, The Cost Proposal.

b. Part II: TECHNICAL PROPOSAL—This part is comprised of the Program Narrative. The proposal should be completed with a table of contents and must be responsive to the evaluation criteria set forth on pages 20–21. The Technical Proposal must be bound separately from Section I and must not exceed 45 pages. DO NOT include any cost information in Part II, The Technical Proposal.

4. Your application should be submitted in original and 2 copies to: U.S. Small Business Administration, Office of Procurement and Grants Management, 409 Third Street, SW, 5th Floor, Washington, DC 20416, ATTN: Mina Bookhard.

XII. Late Submission, Revisions and Withdrawals

1. Any Application received at the Office of Procurement and Grants Management after the exact time specified for receipt will not be considered unless it is received before award is made, AND:

a. It was sent by registered or certified U.S. mail not later than the fifth calendar day before the date specified for receipt of offers (*e.g.,* an offer

submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th);

b. It was sent by U.S. mail or hand-carried (including delivery by a commercial carrier) if it is determined by the Government that the late receipt was due primarily to Government mishandling after receipt at the Government installation;

c. It was sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two working days prior to the date specified for receipt of proposals. The term ''working days'' excludes weekends and U.S. Federal holidays;

d. There is acceptable evidence to establish that it was received at OPGM and was under the Government's control prior to the time set for receipt of offers, and the Grants Management Officer determines that accepting the late offer would not unduly delay the grant review process; or

e. It is the only proposal received.

XIII. Unsuccessful Applicants

After a decision has been reached and if your proposal is not successful, you will receive written notification. This written notice will be SBA's *final* response to this program announcement. SBA *will not* provide debriefing sessions if your proposal was not successful.

XIV. Cancellation

SBA reserves the right to cancel this announcement in whole or in part at the Agency's discretion.

XV. Glossary of Terms

• *ADMINISTRATION:* Means the U.S. Small Business Administration (SBA);

• *ADMINISTRATOR:* Means the Administrator of the Small Business Administration;

• *CAPACITY BUILDING SERVICES:* means services provided to an organization or program that is, or is developing as, a microenterprise development organization or program, for the purpose of enhancing its ability to provide training and services to disadvantaged entrepreneurs;

• *COLLABORATIVE:* means two or more nonprofit entities that agree to act jointly as a qualified organization under this part;

• *DISADVANTAGED ENTREPRENEUR, or DISADVANTAGED MICROENTREPRENEUR*: means the owner, majority owner, or developer of a microenterprise who is also—

1. A low-income person

2. A very low-income person; or

3. An entrepreneur who lacks adequate access to capital or other resources essential for business success, or, is economically disadvantaged as determined by the Administrator.

• *EMERGING MICROENTERPRISE DEVELOPMENT ORGANIZATION OR PROGRAM:* means a microenterprise development organization or program which has a microenterprise capacity building services component, but has had such a component for less than 4 years at the date of its application for a PRIME grant.

• *GRANTEE:* means a recipient of a grant under the Act.

• *GROUP:* has the same meaning as ''collaborative'' defined above.

• *INDIAN TRIBE:* means any Indian tribe, band, pueblo, nation, or other organized group or community, including any Alaska Native village or regional or village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services the United States provides to Indians because of their status as Indians.

• *INDIAN TRIBE JURISDICTION:* means Indian country, as defined in 18 U.S.C. § 1151, and any other lands, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any tribe or individual subject to a restriction by the United States against alienation, and any land held by Alaska Native groups, regional corporations, and village corporations, as defined in or established under the Alaska Native Claims Settlement Act, public domain Indian allotments, and former Indian reservations in the State of Oklahoma.

• *INTERMEDIARY:* means a private, nonprofit entity that seeks to serve qualified microenterprise development organizations and programs;

• *LARGE MICROENTERPRISE DEVELOPMENT ORGANIZATION OR PROGRAM:* means a microenterprise development organization or program with 10 or more full time employees or equivalents, including its executive director, as of the date it files its application with SBA for a PRIME grant.

• *LOCAL COMMUNITY:* means an identifiable area and population constituting a political subdivision of a state.

• *LOW-INCOME PERSON:* means a person having an income, adjusted for family size, of not more than—

(1) for metropolitan areas, the greater of 80 percent of the median income; and

(2) for non-metropolitan areas, the greater of—

(a) 80 percent of the area median income; or

(b) 80 percent of the statewide non-metropolitan area median income;

• *MICROENTREPRENEUR:* means the owner or developer of a microenterprise;

• *MICROENTERPRISE:* means a sole proprietorship, partnership, limited liability corporation or corporation that has fewer than 5 employees, including the owner, and generally lacks access to conventional loans, equity, or other banking services.

• *MICROENTERPRISE DEVELOPMENT ORGANIZATION OR PROGRAM:* means a nonprofit entity, or a program administered by such an entity, including community development corporations or other nonprofit development organizations and social service organizations, that provides services to disadvantaged entrepreneurs.

• *QUALIFIED ORGANIZATION:* means an organization eligible for a PRIME grant that is—

1. a microenterprise development organization or program as defined above (or a group or collaborative thereof) that has demonstrated a record of delivering microenterprise services to disadvantaged microentrepreneurs;

2. an intermediary, as defined above;

3. a microenterprise development organization or program as defined above that is accountable to a local community, working with a State or local government or Indian tribe; or

4. an Indian tribe acting on its own, if the Indian tribe can certify that no private organization referred to in this definition exists within its jurisdiction.

• *SEVERE CONSTRAINTS ON AVAILABLE SOURCES OF MATCHING FUNDS:* means the documented inability of a qualified organization applying for a PRIME grant to raise matching funds or in-kind resources from non-Federal sources during the 2 years immediately prior to the date of its application because of a lack of or increased scarcity of monetary or in-kind resources from potential non-Federal sources.

• *SMALL MICROENTERPRISE DEVELOPMENT ORGANIZATION OR PROGRAM:* means a microenterprise development organization or program with less than 10 full time employees or equivalents, including its executive director, as of the date it files its application with SBA for a PRIME grant.

• *TRAINING AND TECHNICAL ASSISTANCE:* means services and support provided to disadvantaged entrepreneurs, such as assistance for the purpose of enhancing business planning, marketing, management,

financial management skills, and assistance for the purpose of accessing financial services.

• *VERY LOW INCOME PERSON:* means having an income adjusted for family size of not more than 150 percent of the poverty line (as defined in 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2), including any revision required by that section).

XVI. Paperwork Reduction Act (44 U.S.C. Ch. 35)

The information being requested in this Program Announcement is needed to evaluate applicants and ensure that awards are made in furtherance of the PRIME program's objectives. The information will be used to grant awards to provide training and technical assistance to disadvantaged microentrepreneurs. Applicants' responses to the data collection requirements are necessary for them to receive a benefit under the Prime Program. The information provided by applicants will be kept confidential to the extent required by law. Applicants are not required to respond to the Program Announcement unless it displays a currently valid OMB number. SBA estimates it will take applicants 80 hours to respond.

XVII. Privacy Act (5 U.S.C. 552a)

Any person can request to see or get copies of any personal information that SBA has in the requestor's file, when that file is retrieved by individual identifiers, such as name or social security number. Requests for information about another party may be denied unless SBA has the written permission of the individual to release the information to the requestor or unless the information is subject to disclosure under the Freedom of Information Act (FOIA).

Note: Any person concerned with the collection, use and disclosure of information, under the Privacy Act may contact the Chief, Freedom of Information/Privacy Act Office, U.S. Small Business Administration, Suite 5900, 409 Third Street, SW, Washington, DC 20416, for information about the Agency's procedures relating to the Privacy Act and FOIA.

DATE: _____
TO: Applicants
FROM: Office of Procurement and Grants Management (OPGM)
SUBJECT: Program Announcement No. PRIME 01–3, Program for Investment in Microenterprise Act, (''PRIME'') for Research and Development of Best Practices in the Field Microenterprise and Technical Assistance to Disadvantaged Entrepreneurs.

The U.S. Small Business Administration plans to issue Federal grants awards to qualified organizations under PRIME to provide research and development in the field of microenterprise and technical assistance programs to disadvantaged entrepreneurs. These organizations include: non-profit microenterprise development organizations or programs; intermediaries (as defined); other microenterprise development organizations or programs (as defined) that are accountable to a local community, working in conjunction with a State or local government or Indian tribe; or Indian tribes acting on their own, with proper certification that no other qualified organization exists within their jurisdiction.

You are invited to submit an application, an original and two (2) copies, in response to Program Announcement No. PRIME 01–3. You are required to bind the cost proposal and technical proposal separately. Prepare the technical and cost proposals in single-spaced 12-pt. font format, not to exceed 45 pages including exhibits and appendices. The Government will not return proposals, but will retain them for a limited period of time. The closing date for the program announcement is _____, 4:00 P.M., Eastern Standard Time. Address your applications/proposal to the U.S. Small Business Administration, Office of Procurement & Grants Management (OPGM), 409 3rd Street, SW, 5th Floor, Washington, DC 20416, Attention: Mina Bookhard, Agreement Officer. If hand carried, deliver the application/proposal to Mina Bookhard, or her designee, at the above address. Deliveries to other locations will be considered late if not received in OPGM at the U.S. Small Business Administration by 4:00 p.m. on _____. Please place the following notation in the lower left corner of the sealed envelope or package:

THIS IS A SEALED OFFER. DO NOT OPEN. STAMP THE DATE AND TIME RECEIVED ON THE ENVELOPE. THE ENCLOSED APPLICATION IS IN RESPONSE TO PROGRAM ANNOUNCEMENT NUMBER PRIME 01–3, DUE _____ AT 4:00 P.M., Eastern Standard Time, AT SBA's OFFICE OF PROCUREMENT & GRANTS MANAGEMENT.

Applicants will be required to meet the standards for financial management systems as prescribed in the Office of Management and Budget's (OMB) Circular A–110, Subpart C, sections .21 through .28, and 13 C.F.R. Part 143.

Questions concerning this program announcement should be directed to Warren Boyd at (202) 205–7534. Questions about budget or funding matters should be directed to Mina Bookhard, at (202) 205–7080.

Sincerely,
Sharon Gurley,
Director, Office of Procurement and Grants Management

OFFICE OF FINANCIAL ASSISTANCE

PROGRAM ANNOUNCEMENT

PROGRAM FOR INVESTMENT IN MICROENTREPRENEURS ACT, (''PRIME'')

TO RESEARCH AND DEVELOP BEST PRACTICES IN THE FIELD OF MICROENTERPRISE AND TECHNICAL ASSISTANCE PROGRAMS TO DISADVANTAGED ENTREPRENEURS

FISCAL YEAR 2001

U.S. SMALL BUSINESS ADMINISTRATION

OFFICE OF FINANCIAL ASSISTANCE

OPENING DATE: _____
CLOSING DATE: _____
ANNOUNCEMENT NO: PRIME 01–3

TABLE OF CONTENTS

I. Legislation Purpose

The Program for Investment in Microentrepreneurs Act of 1999 (P.L. 106–102) became law on November 12, 1999. 15 U.S.C. 6901 *et seq.* (''PRIME'' or ''the Act''). The Act authorizes the Administrator of the U.S. Small Business Administration (SBA) to establish a microenterprise training and technical assistance program for disadvantaged microentrepreneurs and

to provide training and capacity building grant program to microenterprise development organizations (MDOs). Additionally, the Act authorizes research and development of best practices for microenterprise development and technical assistance programs for disadvantaged entrepreneurs and other activities as the Administrator of SBA determines are consistent with the Act.

PRIME has several purposes for which SBA will issue separate program announcements soliciting applications geared toward a particular legislative purpose.

Program Announcements called for under the Act solicit, from eligible organizations, applications for grant funding to be used to carry out the purposes of the Act as follows:

Program Announcement No. PRIME 01–1 calls for applications from qualified organizations wishing to obtain grant funding for the purpose of providing training and technical assistance programs for disadvantaged microentrepreneurs.

Program Announcement No. PRIME 01–2 calls for applications from qualified organizations wishing to obtain grant funding for the purpose of providing training and capacity building services to microenterprise development organizations and programs and groups of such organizations to assist them in developing microenterprise training and services.

Program Announcement No. PRIME 01–3 calls for applications from qualified organizations wishing to obtain grant funding for the purpose of pursuing research and developing best practices in the field of microenterprise and technical assistance programs for disadvantaged microentrepreneurs.

The purpose of this Program Announcement No. PRIME 01–3, is to solicit applications from eligible organizations wishing to obtain grant funding for the purpose of conducting research development of microenterprise development best practices. Specifically, PRIME–01–3 solicits proposals from qualified organizations wishing to obtain grant funding for the purpose of researching and developing best practices in the field of microenterprise and technical assistance programs for disadvantaged microentrepreneurs. Grants will be awarded subject to the availability of funds. And, no single entity will receive a grant in excess of $250,000 or 10% of the total amount appropriated, whichever is less.

II. Introduction

Congress recognized that many disadvantaged microentrepreneurs lack sufficient training and education to gain access to capital to establish and expand their own small businesses. It enacted PRIME to augment training and technical assistance under the Small Business Act and other legislation, and to foster research and development of best practices in microenterprise and technical assistance to disadvantaged microentrepreneurs to further advance programs to the disadvantaged microentrepreneurs and further advance the microenterprise industry.

Many low income and very-low income entrepreneurs need training and technical assistance to start, operate, or expand their businesses. In order to achieve measurable success in the effort to providing direct training and technical assistance to low and very low income individuals, PRIME will award grants for the research and development of best practices in the delivery of services to disadvantaged microentrepreneurs.

For every business started or microloan made, a number of entrepreneurs are preparing themselves for business start. A generally accepted assumption in the microenterprise industry is that it takes approximately 10 potential microentrepreneurs for every microenterprise started or microloan booked. The cost of training is substantial because those at the entry-level stage of development typically require the greatest amount of dedicated advice and guidance, over an extended period of time, to achieve the highest rates of success. Funding is scarce relative to the need. The microenterprise industry has found the technical assistance-funding gap to be a nationwide condition, particularly in the very low-income sector.

The Program for Investment in Microenterpreneurs (PRIME) authorizes SBA to make grants to fund research and development of ''best practices.'' The microenterprise development industry has reached a stage of development that can produce, and will benefit from, substantive research that captures the best practices in this area. The program requires that grantees match a portion of the SBA's funds with funds from other sources.

III. Program Overview

1. *Project Name:* Program for Investment in Microentrepreneurs (PRIME).

2. *Purpose:* Aid in researching and developing best practices in the field of microenterprise and technical assistance programs for disadvantaged microentrepreneurs.

3. *Federal Catalog Number:* 59.049.

4. *Authority:* The Program for Investment in Microentrepreneurs Act of 1999, ''PRIME'', P.L.106–102, 15 U.S.C. § 6901 *et seq.*

5. *Funding Instrument:* Grant.

6. *Funding:* Funding is subject to the availability of funds and the requirements enumerated under the Act.

7. *Funding Range:* Award amounts may vary, depending upon availability of funds (and performance for option years); however, no single person may receive more than $250,000 or ten (10) percent of the total funds made available for this program in a single fiscal year, whichever is less. In general, match is required, although SBA may reduce or eliminate the required match in certain circumstances (up to a program limit of 10 percent).

8. *Number of Awards:* SBA anticipates issuing multiple awards under this Announcement. The number may vary, based on the needs of the pool of qualified applicants received and the amount of available funds.

9. *Targeted assistance:* A minimum of 50% of the funds available for grants under the PRIME Act must be used to benefit very low income persons (as defined in this document), including those residing on Indian reservations.

10. *Closing Time and Date for the Submission of Applications:* _____ at 4:00 P.M. Eastern Daylight Time.

11. *Project Starting Date:*_____ (estimated).

12. *Project Duration:* The period performance for this grant is one base year with four (4) twelve-month options subject to availability of funds and continued program authorization. The total possible period of performance is five years. Each option year will constitute a separate budget period. The project recipient's satisfactory performance will be one of the key factors in determining the award of an option year. Failure to secure the required annual non-Federal contribution during any project year may jeopardize continued option year funding.

13. *Proposal Evaluation:* Applications will first be screened to determine if the applicant meets certain mandatory eligibility requirements. Applicants that do not document in their application that they meet these requirements will not be evaluated by SBA for participation in the Prime Program. In addition, applications that are incomplete, illegible, or unreadable, in whole or in part, will be deemed incomplete and will not be evaluated.

Eligible proposals will be scored by an Objective Review Committee (ORC) based on evaluation criteria stated in this program announcement. The ORC will consist of SBA officials and may include Federal Officials from other agencies. Microenterprise Development Branch staff will review the ORC evaluations, the ORC's summary report on each applicant, and the applicant's proposals to determine the final scoring of award recipients. SBA may ask applicants for clarification on the technical and cost aspects of the proposals. Such clarifications must not be construed as a commitment to fund the proposed effort.

14. *Points of Contact:* Questions concerning the technical aspects of this Program Announcement should be directed to the Microenterprise Development Branch at (202) 205–7534. However, due to the competitive process, SBA will be unable to assist with answers to specific questions regarding individual proposals or requests for assistance in completing proposals. Questions concerning budget or funding of this Grant should be directed to Mina Bookhard at (202) 205–6621.

15. *Award Notification:* All applicants will receive a written notification relative to selection of award recipients. This written notice will be SBA's *final* response to this program announcement. SBA will not provide debriefing sessions if your proposal was not successful.

16. *Cancellation:* SBA reserves the right to cancel this Program Announcement in whole or in part at the Agency's discretion.

IV. Eligible Applicants for This Grant

An organization will be considered eligible for funding for research and development of best practices in the field of microenterprise and technical assistance programs for disadvantaged microentrepreneurs if it meets the following eligibility criteria:

1. A microenterprise development organization or program (or group or collaborative thereof) that has a demonstrated record of delivering microenterprise services to disadvantaged entrepreneurs, OR

2. An intermediary (as defined in this document) which has experience in delivering technical assistance to disadvantaged entrepreneurs, OR

3. A microenterprise development organization or program (as defined in this document) that is accountable to a local community, working in conjunction with a State or local government or Indian tribe, OR

4. An Indian tribe acting on its own, if the Indian tribe can certify that no private organization or program referred to in this paragraph exists within its jurisdiction.

An eligible applicant for the PRIME research and development grant must provide documentation in its application that it falls within one of the above categories of qualified organizations. Such documentation should include but is not limited to:

1. A copy of your organization's IRS tax-exempt certificate including the IRS code under which your organization is considered non-profit;

2. Certification by your Secretary of State that your organization is legally allowed to do business in the State and a copy of your organization's articles of incorporation and by-laws;

3. For category 4 in the preceding paragraph, written certification from a duly authorized person that no other qualified organization (i.e. private organization or program as defined in categories 1–3 above) exists within its jurisdiction; and

4. Financial statements for the past 3 years. If your organization has been in business for less than 3 years provide your year end financial statements for those years completed and a financial statement not less than 90 days old.

SBA will not evaluate applications that do not meet these requirements. SBA may not screen applicants for eligibility until after the Closing Date for application acceptance. SBA will attempt to notify applicants of ineligible proposals as soon as practicable. However, SBA is under no obligation to notify ineligible applicants before the Closing Date for the acceptance of applications under this Program Announcement. SBA strongly urges all applicants to ensure all eligibility requirements are met and documented before sending an application to SBA.

V. Ineligible Applicants for This Grant

The following applicants will automatically be considered ineligible and their applications will not be evaluated:

1. Any organization with an unresolved audit by any Federal agency.

2. Any organization suspended or debarred from receiving grants from any Federal agency or is otherwise excluded from Federal non-procurement or procurement programs.

3. Any organization which has defaulted on an obligation to the United States.

VI. General Information

1. Definitions

Throughout this program announcement specific terminology may be used, as defined in the Act and the accompanying rule (13 CFR part 119) published on _____. The definitions are contained in a glossary of terms located at the end of this document in Section XV.

2. Collaborative Applications

a. If you participate in a collaborative (as defined in this document), all entities who are party to the collaborative must separately meet the statutory requirements and eligibility requirements in order to apply as a collaborative.

b. Applications from collaboratives must name the primary liaison with the Federal government, and include a copy of the collaborative agreement outlining responsibilities of each partner organization. An authorized signature from each organization must appear on the agreement. The primary liaison will be responsible for coordinated reporting and requests for funding.

3. Program Income

All program income as defined in OMB Circular A–110, and OMB A–122 shall be reported on financial reports submitted to SBA and added to funds committed to the project by SBA and recipient organizations. Program income may only be used to further eligible program objectives.

4. Cost Principles

a. *General:* All costs approved for a successful applicant must meet the tests of necessity, reasonableness, allowability and allocability in accordance with the cost principles applicable to this award. All proposed costs are subject to pre-award audit. Grantees are responsible to ensure proper management and financial accountability of Federal funds to preclude future cost disallowances. Payment will be made by reimbursement or advance payments as described in the grant award document and applicable OMB Circulars.

b. *Carryover Policy:* The grantee may request approval to use unexpended funds in the next budget period. This is permissible if funds are to be used for a non-severable, non-recurring project or activity within the scope of the PRIME program. Non-severable means a project in its entirety that cannot be subdivided.

The request for using unexpended funds in the next budget period must include the following:

(1) SF 424, budget pages, and justification;

(2) Explanation of why the funds were not expended during the period in which they were awarded; and

(3) Evidence of match. The match requirement for funds carried over to the next budget period can be met by using any excess of matching funds from the current budget period, new matching funds, or a combination of both.

The request must be made no later than 60 days before the end of the budget/project period or the de-obligation process will begin. Approved requests will require the issuance of a revised Notice of Award. Expenditures for funds carried over to the next budget period must be tracked separately.

5. Publications/Websites

Any publications or websites developed under this grant must be submitted to SBA for prior review and approval. SBA will have an unlimited license to use data and written materials generated under this grant award, whether or not the materials are copyrighted. Any publications resulting from this project must include the following acknowledgement of support, whether copyrighted or not, in legible, easily readable print:

This grant is partially funded by the U.S. Small Business Administration. SBA's funding is not an endorsement of any products, opinions, or services. All SBA funded programs are extended to the public on a nondiscriminatory basis.

The grant recipient may not use the U.S. Small Business Administration name or logo for the endorsement of any services, products, or merchandise under this award.

The SBA logo may appear on prominent webpages of Internet sites that are related to this project, but must appear with the above disclaimer in legible, easily readable print and acknowledgement of support in close physical proximity (within 2 inches) next to it.

6. Reports

a. General Reporting

The selected grantees will be required to submit the reports as outlined below. Participants must agree to cooperate with SBA in the collection and retention of data required by this agency. Your ability to meet reporting requirements must be addressed in the Technical Proposal.

Payments may be withheld if reports are not submitted within the required time frame or if the quality of reports is considered inadequate.

b. Performance Reports

Quarterly performance reports, unless otherwise specified, must contain a summary of activity for the reporting period using the following format:

1. A comparison of actual accomplishments to the estimated milestones established in the proposal and/or subsequent grant agreement.

2. A discussion of accomplished milestones and reasons for slippage in those cases where milestones are not met. Where milestones were not met, a plan of action must be provided to overcome these slippages or a detailed statement of how the project will be improved if the milestones are revised.

3. Information relating to actual financial expenditures of budgeted cost categories versus the estimated budget award, including an explanation of all cost overruns, if any, by budgeted cost category. Financial data furnished in this report is from a manager's standpoint and is in addition to that furnished in the financial reports cited below.

4. Any other pertinent information, including any significant accomplishments or met milestones of special significance. The report should include items which may be determined appropriate by SBA after acceptance of the grant proposal but which cannot be pre-determined due to the undetermined special purpose of the grant at the writing of this document.

Quarterly reports will be due no later than:

(a) January 31 for the period ending December 31,

b) April 31 for the period ending March 31,

(c) July 31 for the period ending June 30, and

(d) October 31 for the period ending September 30.

c. Financial Reports

1. Financial Status Report Forms must be submitted every quarter with the performance reports. Reports must include the SF 269, Financial Status Report, and the SF 272, Federal Cash Transactions Report.

2. The year-end report must include a cost breakdown of actual expenditures and costs incurred by line item. Participants will also be required to submit the SBA Form 2069, Detailed Actual Expenditures for Period Covered by Request, with the final SF 269.

3. In addition, grantees will be required to submit audited annual financial statements, if available, or annual financial statements prepared by a licensed, independent public accountant, within 120 days of the end of the grantee's fiscal year period.

SBA may withhold payment of advances or reimbursements if reports are not received or are regarded as inadequate.

SBA may, at its discretion, reduce reporting requirements to semi-annually as it deems appropriate. SBA will notify participants if it decides to take such action.

7. Match Requirements

In general, funds awarded under the PRIME Program will require a non-Federal match of not less than 50% of each dollar awarded. Matching funds may come from fees, non-Federal grants, gifts, funds from loan sources, and in-kind resources. After the initial grant, grant awards for the following option years will be made in declining amounts, declining by 20% of the initial grant amount in each successive year.

Exception: In the case of an applicant with severe constraints on available sources of matching funds, SBA may reduce or eliminate the 50% match requirement on a case by case basis. Any reductions or eliminations must not exceed 10% of the aggregate of all PRIME grant funds made available by SBA in any fiscal year.

Organizations seeking to receive a reduction or elimination of the matching fund requirement must include such a request (as a cover letter) with their proposal, and include justification and supporting documentation for their request. Submission of a request will not automatically guarantee that an exception, in whole or in part, will be granted. Rather, it will alert SBA to the applicant's desire to receive an exception.

8. Fundraising Not Allowable Expense

Expenditures for fundraising activities are not allowable costs under this grant. Applicants must be able to raise matching funds without the assistance of grant funds. The applicant must demonstrate that it has adequate community based fundraising resources to obtain required non-Federal matching funds to perform the project.

9. Subgrants

An organization selected to receive a grant under the PRIME Program may provide sub-grants to qualified small and emerging microenterprise development organizations. Applicants wishing to provide sub-grants as a part of their implementation plan should include detailed information regarding same in their Technical Proposal. An applicant that wants to make subgrants using PRIME grant funds must receive written approval from SBA prior to

making subgrants. The applicant must identify the subgrantee(s) and describe in detail what the subgrantee(s) will do to help the grantee implement its proposal.

An applicant must submit information to SBA demonstrating that the subgrantee(s) will:

(1) Further the goals of the grantee's research and development project, or

(2) Provide necessary services to the grantee that grantee otherwise would not be able to obtain.

If an applicant has identified potential subgrantee(s) at the time it submits an application for a PRIME grant, the applicant must include the information requested in the paragraph above in the application. Otherwise, the applicant or grantee may submit the requested information at such time that approvals for subgrantee(s) are requested.

The total amount of monies subgranted by the grantee must not exceed 50% of the total amount of the PRIME grant. A maximum of 7.5% of the funds awarded may be used by the grantee for administrative expenses in connection with the making of subgrants.

10. Subcontracts

Any and all subcontracts awarded under this grant must be approved by SBA in advance and in writing and must not exceed 50% of the total amount of the PRIME grant.

11. Diversity

In making grants under this Program Announcement, SBA will ensure that grant recipients include both large and small microenterprise organizations, serving urban, rural and Indian tribal communities serving diverse populations.

12. Prohibition on Preferential Consideration of Certain SBA Program Participants

In making grants under this Program Announcement, SBA will not give preferential consideration to an applicant that is a participant in the program established under section 7(m) of the Small Business Act.

VII. OMB Uniform Administrative Requirements And Cost Principles

The Prime Grant Notice of Award incorporates by reference all applicable OMB Circulars, including:

1. OMB Circular A–21, ''Cost Principles for Educational Institutions,'' containing cost principles for educational institutions;

2. OMB Circular A–87 ''Cost Principles for State, Local, and Indian Tribal Governments,'' containing cost principles for State, local governments, and federally recognized Indian tribal governments.

3. OMB Circular A–110, ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations,'' containing administrative requirements;

4. OMB Circular A–122, ''Cost Principles for Non-Profit Organizations,'' containing cost principles for non-profits; and

5. OMB Circular A–133, ''Audits of States, Local Governments, and Non-Profit Organizations,'' concerning audits.

Current versions of OMB Circulars are available from the Office of Management and Budget's website. The address is: *www.whitehouse.gov/WH/EOP/OMB/html/circular.html.*

VIII. Proposal Instructions and Evaluation Criteria

The technical and cost proposals must be bound separately. The technical proposal must be single-spaced and not exceed 45 pages, excluding exhibits and appendices. Prepare your proposal using the following outline.

1. Application Format

A. Technical Proposal

Section 1. Eligibility Requirements (not to exceed 5 pages)

In this section the applicant must prove that it falls within one of the four categories of qualified organizations. (See Section IV) Applicants are reminded to include documentation of the mandatory eligibility requirements in their technical narrative. Failure to provide the mandatory eligibility documentation will result in disqualification of the application, and the application will not be evaluated. In addition, incomplete or illegible (in whole or in part) applications will not be evaluated.

Section 2. Applicant Experience (not to exceed 15 pages)

Applicant experience includes information regarding current and past performance in conducting research and development activities particularly as such activities relate to the improvement of technical assistance to disadvantaged entrepreneurs (as defined in this document). Previous work in the development of best practices in the field of microenterprise development should be noted in discussions of experience.

In this section, the applicant should discuss the items delineated below. To the extent possible, the applicant should provide internal statistical data to document its past experience and illustrate current activities.

1. Illustrate an understanding of the microenterprise industry, the microentrepreneurial community, the perceived needs of disadvantaged entrepreneurs.

2. Enumerate and summarize your organization's current and historical research and development activity as it relates to microenterprise development and provision of technical assistance (particularly to disadvantaged entrepreneurs).

3. Provide a list of grants and or contracts similar in scope to the grant for which you are applying. Specifically provide the name, if any, of any Federal or non-Federal, agency (ies) or private sector foundations or organizations providing funding, the grant or contract number, a short summary of services provided under each grant, and the period(s) of performance. Include in each summary the name and contact information (phone number and E-mail address) of the person providing oversight on each grant or contract. Also include abstracts of research and development activities conducted during the past five years, particularly in the field of microenterprise development and/or training and technical assistance to disadvantaged entrepreneurs. The abstracts should clearly illustrate the nature and scope of the research conducted. (Limit to 8 pages)

Section 3. Institutional Capacity (not to exceed 5 pages)

This section should include the following:

1. Personnel Qualifications and Internal Structure

- Applicants must have, or demonstrate the ability to obtain, personnel who are qualified to meet the goals of providing research and development under this grant. Provide resumes of personnel key to your organization's participation in the PRIME Program. The resumes should clearly present personnel's qualifications relative to this particular work. Special mention should be made of relevant experience. Personnel indicated must demonstrate knowledge of research and development methodologies and strategies particularly as they relate to microenterprise development issues.
- Provide an organizational chart for all proposed full-time and part-time project staff and the amount of time each will devote to the project. The Project Director should be a full time

employee; however, the Project Director does not have to be dedicated solely to this activity. The project director (and other federally funded staff positions) must not engage in fundraising activities using Federal funds provided under this grant.

• A description of the role of subcontractors, subgrantees and/or outside consultants, that may be called upon to provide assistance with the completion of activity to be funded under this grant.

• Delineate how the organization will manage data collection and electronic reporting to SBA and the position of the person within the organization that will be responsible for financial record keeping pertaining to the receipt and expenditure of PRIME program funding.

2. Data Collection and Statistical Information Tracking

• Describe your organizations current data collection and management systems. If applying as a group or collaborative, describe how data management systems will be integrated for an inter-organizational uniform approach to data gathering for reporting as well as production of a final product.

• Describe your organization's computer capacities, if any, and the software used. Indicate whether or not your organization is connected to the Internet and, if not, delineate plans to become connected. The applicant should indicate its level of willingness/capability to report data via the Internet.

• Describe your organization's internal systems of checks and balances in terms of financial, data collection, and reporting systems. If applying as a group or collaborative, also describe the plan for inter-organizational checks and balances in terms of those systems. Also indicate which member of the group or collaborative will be responsible for coordination and submission of data and reports, and how the collaborative will ensure that this responsibility will be fully implemented.

Section 4. Program Narrative (not to exceed 15 pages)

Research and Development projects are sought in several areas of microenterprise industry development. In a broad sense, several projects are suggested below. However, proposals for projects not suggested, but inside the scope of the goals of the Act, will be accepted for consideration. In general, research should concentrate on the forward movement of the disadvantaged microenterprise development industry. The research should also focus on the development, replicability, and transferability to disadvantaged microenterprise development service providers. The underlying theme of any activities should be how the final product will enhance provision of microenterprise services to disadvantaged entrepreneurs.

Each applicant must provide the following:

1. A research proposal indicating the thesis, method(s) scope, duration, and implementation plans (if appropriate) for the final product.

2. A discussion of how the proposed research will aid in the development of best practices and what enhancements are anticipated, as a result of the proposed activity, to the delivery of microenterprise services to disadvantaged microentrepreneurs.

While not limiting the scope of proposals, SBA is interested in developing several products for general use by industry participants as follows, to meet the ultimate goal of enhancing delivery of services to disadvantaged microentrepreneurs:

• A generally accepted baseline for minimum performance as a microenterprise development organization (MDO) and a standardized method by which neophyte, or under-performing, organizations can meet that baseline performance.

• A generally accepted glossary of terms for use in the domestic microenterprise industry which should be broad based enough to avoid succinct standardization, but specific enough to provide clarity of purpose and a common language within which industry participants can communicate.

• A start-up kit for organizations considering entry into the microenterprise development field.

• A case study oriented ''best practices'' training manual for use by industry participants.

• Comparative studies of service delivery issues in terms of geography, population density, economic stratification, gender, or other relevant issues.

Section 5. Timeline/Milestones (not to exceed 5 pages)

In this section the applicant must include a timeline with milestones covering the 12-month grant period. Milestones should clearly illustrate the applicant's goals for completion of the proposed project and the projected use of funds.

Section 6. Supporting Documentation

In this section the applicant should provide any necessary documentation to support its proposal, including but not limited to the following documents:

1. A statement signed by your Executive Director (or an equivalent duly authorized person), authorizing SBA to make inquiries to other Federal Agencies as to the performance capabilities of your organization.

2. A copy of your organization's IRS tax exempt certificate including the IRS code under which your organization is considered non-profit.

3. Certification by your Secretary of State that your organization is legally allowed to do business in the State and a copy of your organization's articles of incorporation and by-laws.

4. A copy of your organization's financial statements for the last 3 years.

5. Resumes and reference information for personnel key to the delivery of technical assistance services to date.

6. An organizational chart, if you are applying as a group, or plan to use sub-contractors, include a second organizational chart that shows how the members of the group will interact and collaborate and/or how the sub-contractors will fit into the work flow plan.

B. Cost Proposal

The cost proposal must include the application cover sheet (SF 424), budget information, and assurances and certifications. Additional information on how to organize the proposal is provided on page 20, ''Preparing Your Budget.''

2. Evaluation Factors

Applications will generally be reviewed for technical merit as follows:

1. SBA will evaluate organizational structure, financial stability, financial management systems, personnel capacity, and electronic communication capabilities (or potential for same). Additional evaluations will be made on the data collection capabilities, reporting capacities, and ability to account for performance.

2. SBA will evaluate how the research potentially will enhance microenterprise oriented technical assistance services to disadvantaged entrepreneurs. Applicants must show the method(s), scope, duration, and implementation plans of the proposed research.

3. SBA will evaluate the applicant's plan of action incorporating original and secondary research. Applicants must show impact on improved access to microenterprise development services for disadvantaged entrepreneurs, and the expected replication/transferability of the finished product to the field.

Research and development awards will be competed from a single pool of applicants. Specifically, areas of

evaluation and the maximum number of points attainable under each are as follows:

A. Institutional Capability (total of 90 points)

The following factors are considered under this criteria:

(1) Organizational structure, financial stability, and financial management systems (20)

(2) Personnel (30)

(3) Electronic communication or potential for same (20)

(4) Data collection and reporting capability (20)

B. Past performance and history of conducting similar research and development, especially related to disadvantaged microentrepreneurs (20 points)

C. Management Plan for Proposed Research and Development including transferability and replication (total of 110 points)

The following factors are considered under this criteria:

(1) Proposal's potential for enhancement of microenterprise oriented technical assistance to disadvantaged entrepreneurs (30)

(2) Methods and scope of research (20)

(3) Plan of action incorporating original and secondary research (30)

(4) Transferability and replication of the finished product (30)

The total number of points an applicant may attain under this evaluation system is 220.

IX. Option Year Funding

Applicants shall prepare application cover sheets (SF Form 424) and budgets for each of the 5 budget periods consisting of 12 months each. Applicants are advised that the performance period for specific awards made under this announcement may consist of one base year with up to 4 twelve-month option years. The project periods may consist of up to 5 twelve-month budget periods. Each additional twelve-month budget period beyond the original base year may be exercised at the discretion of the Government. Among the factors involved in deciding whether to exercise an option are the availability of funds, continuing program authorization, satisfactory performance of the applicant, and the determination that continued funding would be in the best interest of the Government.

After the initial grant, grant awards for the option years will be made in declining amounts, declining by 20 percent of the initial grant amount in each successive year.

X. Preparing Your Budget

INSTRUCTIONS FOR STANDARD FORM 424 (APPLICATION FOR FEDERAL ASSISTANCE)

Standard Form 424, Application of Federal Assistance, will be found beginning at page A–1 of this announcement. This guidance supplements that contained on the reverse side of the form.

Item 1. Self-explanatory
Item 2. Refer to instructions on reverse of form
Item 3. Refer to instructions on reverse of form
Item 4. Leave Blank
Item 5. Refer to instructions on reverse of form
Item 6. Refer to instructions on reverse of form
Item 7. Refer to instructions on reverse of form
Item 8. Enter: ''new'
Item 9. Enter: ''U.S. Small Business Administration''
Item 10. Enter: 59.049 Program for Investment for Microentrepreneurs (PRIME)
Item 11. Refer to instructions on reverse of form
Item 12. Refer to instructions on reverse of form
Item 13. Refer to instructions on reverse of form
Item 14. Refer to instructions on reverse of form
Item 15. Refer to instructions on reverse of form
Item 16. Enter: Check ''b.'' This program is not covered by E.O. 12372.
Item 17. Refer to instructions on reverse of form
Item 18. Refer to instructions on reverse of form

INSTRUCTIONS FOR STANDARD FORM 424A (BUDGET INFORMATION)

Budget information is found on pages *A–1 through A–11*

The budget is the applicant's estimate of the total cost of performing the project or activity for which grant support is requested. The budget is to be based upon the cost of performing the project, including Federal and private sources. All proposed costs reflected in the budget must be necessary to the project, reasonable and otherwise allowable under applicable cost principles and Agency policies. All costs must be justified and itemized by unit cost on the Budget Worksheets (p. A–3).

Section A—Budget Summary
Column (A): Enter ''PRIME 01–3''
Column (B): Enter the Catalog of Federal Domestic Assistance Number 59.049

Section B—Budget Categories

Amounts entered by budget category in this section are for summary purposes only. Itemization and justification of specific needs by budget category are to be shown under line 21, Section F.

Line 6.a.–6.h. The budget amounts must reflect the total requirements for funds regardless of the source of funds. All amounts entered in this section are to be expressed in terms of whole dollars only after completing the requirements of Section F.

Line 6.j. Indirect costs are those costs related to the project that are not included as direct costs in a. through h.

Section C—Non-Federal Resources

Refer to instructions on reverse of form.

Section D—Forecasted Cash Needs

Refer to instructions on reverse of form.

Section E—Budget Estimates of Federal Funds Needed for Balance of the Project

Refer to instructions on reverse of form.

Section F—Other Budget Information

Line 21, Direct Charges: Identify and explain all items or categories under Section B in accordance with the instructions set forth below. The itemization must reflect the total requirements for funding from Federal and non-Federal sources. In most instances, Line 21 does not provide sufficient space to reflect all of the necessary information. Budget Worksheets are enclosed for your convenience. You may use these worksheets for the detailed budget information listed below or a reasonable facsimile; BUT each budget line item pertinent to your submission MUST ALSO be completed on the application. Please show a complete breakdown of all cost elements summarized in Section B on a separate sheet. Do not list on Line 21 any items included in the indirect expenses entered on Line 22 below.

a. Personnel: List the name, title, salary and estimated amount of time for each employee who will be assigned to this project. Note that fees, expenses, and estimated amount of time for outside consultants should be included in f., Contractual. The estimated performance time for outside consultants is not to exceed 50 percent of the total amount of the PRIME grant. Resumes of all personnel assigned to this effort must be included in the application.

b. Fringe Benefits: Leave blank if fringe benefits applicable to direct salaries and wages are treated as part of indirect costs in the indirect cost rate negotiation agreement. If your organization does not have a federally negotiated fringe benefit package, list each component included as a fringe benefit.

c. Travel: Reimbursement will be made based on incurred cost. Estimates should be based on knowledge of the geographical area of small business locations. Reimbursement to contractors or volunteers will not be made for time in travel to and from the client's location. Supporting data should include numbers of trips anticipated, costs per trip per person, destinations proposed, modes of transportation, and related subsistence expenses.

Line 22 Indirect Charges:

(Attach Budget Worksheets or reasonable facsimile if sufficient space is not provided.)

Enter the indirect cost rate, date, and agency that issued rate.

If an indirect cost rate is not established, itemize elements and costs of overhead and G&A (General and Administrative) expense categories relative to the performance of this project.

XI. Assembly and Mailing Instructions

1. Please indicate the following information on the front of your return envelope:

a. Your organization's name and return address including zip code in the upper left-hand corner of the return envelope.

b. Place the following notation in the lower left-hand corner of the sealed envelope.

THIS IS A SEALED OFFER. DO NOT OPEN. STAMP THE DATE AND TIME RECEIVED ON THE ENVELOPE. THIS PROPOSAL IS IN RESPONSE TO PROGRAM ANNOUNCEMENT NUMBER, _____ DUE _____, 2000, AT 4:00 P.M., EASTERN STANDARD TIME, AT THE U.S. SMALL BUSINESS ADMINISTRATION, OFFICE OF PROCUREMENT & GRANTS MANAGEMENT, 409 3RD STREET, SW, 5TH FLOOR, WASHINGTON, DC 20416, ATTENTION: MINA BOOKHARD.

2. *Application.* Please submit an original and 2 copies of the pages described below in items a and b. They are part of the Announcement and should be completed and submitted with an original and 2 copies of your proposal:

a. The Federal Assistance Application (Standard Form 424), including the cost and technical proposals, and related budgetary data.

b. Appendix B, Assurances and Certifications (with appropriate signature).

3. To facilitate review and processing of the proposals, your submission must be arranged, as follows, in two separately bound parts:

a. Part I: COST PROPOSAL—This part is to be comprised of the Application, the Budget Information, and the Assurances and Certifications. The material identified as Part I must be bound separately from the Technical Proposal. DO NOT include any technical information in Part I, The Cost Proposal.

b. Part II: TECHNICAL PROPOSAL—This part is comprised of the Program Narrative. The proposal should be completed with a table of contents and must be responsive to the evaluation criteria set forth on the pages 19–20. The Technical Proposal must be bound separately from Section I and must not exceed 45 pages. DO NOT include any cost information in Part II, The Technical Proposal.

4. Your application should be submitted in original and 2 copies to: U.S. Small Business Administration, Office of Procurement and Grants Management, 409 Third Street, SW, 5th Floor, Washington, DC 20416, ATTN: Mina Bookhard.

XII. Late Submission, Revisions and Withdrawals

1. Any Application received at the Office of Procurement and Grants Management after the exact time specified for receipt will not be considered unless it is received before award is made, AND:

a. It was sent by registered or certified U.S. mail not later than the fifth calendar day before the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th);

b. It was sent by U.S. mail or hand-carried (including delivery by a commercial carrier) if it is determined by the Government that the late receipt was due primarily to Government mishandling after receipt at the Government installation;

c. It was sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two working days prior to the date specified for receipt of proposals. The term ''working days'' excludes weekends and U.S. Federal holidays;

d. There is acceptable evidence to establish that it was received at OPGM and was under the Government's control prior to the time set for receipt of offers, and the Grants Management Officer determines that accepting the late offer would not unduly delay the grant review process; or

e. It is the only proposal received.

XIII. Unsuccessful Applicants

After a decision has been reached and if your proposal is not successful, you will receive written notification. This written notice will be SBA's *final* response to this program announcement. SBA *will not* provide debriefing sessions if your proposal was not successful.

XIV. Cancellation

SBA reserves the right to cancel this announcement in whole or in part at the Agency's discretion.

XV. Glossary of Terms

- *ADMINISTRATION:* Means the U.S. Small Business Administration (SBA);
- *ADMINISTRATOR:* Means the Administrator of the Small Business Administration;
- *CAPACITY BUILDING SERVICES:* means services provided to an organization or program that is, or is developing as, a microenterprise development organization or program, for the purpose of enhancing its ability to provide training and services to disadvantaged entrepreneurs;
- *COLLABORATIVE:* means two or more nonprofit entities that agree to act jointly as a qualified organization under this part;
- *DISADVANTAGED ENTREPRENEUR, or DISADVANTAGED MICROENTREPRENEUR:* means the owner, majority owner, or developer of a microenterprise who is also—

1. a low-income person
2. a very low-income person; or
3. an entrepreneur who lacks adequate access to capital or other resources essential for business success, or, is economically disadvantaged as determined by the Administrator.

- *EMERGING MICROENTERPRISE DEVELOPMENT ORGANIZATION OR PROGRAM:* means a microenterprise development organization or program which has a microenterprise capacity building services component, but has had such a component for less than 4 years at the date of its application for a PRIME grant.
- *GRANTEE:* means a recipient of a grant under the Act.
- *GROUP:* has the same meaning as ''collaborative'' defined above.

• *INDIAN TRIBE:* means any Indian tribe, band, pueblo, nation, or other organized group or community, including any Alaska Native village or regional or village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services the United States provides to Indians because of their status as Indians.

• *INDIAN TRIBE JURISDICTION:* means Indian country, as defined in 18 U.S.C. 1151, and any other lands, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any tribe or individual subject to a restriction by the United States against alienation, and any land held by Alaska Native groups, regional corporations, and village corporations, as defined in or established under the Alaska Native Claims Settlement Act, public domain Indian allotments, and former Indian reservations in the State of Oklahoma.

• *INTERMEDIARY:* means a private, nonprofit entity that seeks to serve qualified microenterprise development organizations and programs;

• *LARGE MICROENTERPRISE DEVELOPMENT ORGANIZATION OR PROGRAM:* means a microenterprise development organization or program with 10 or more full time employees or equivalents, including its executive director, as of the date it files its application with SBA for a PRIME grant.

• *LOCAL COMMUNITY:* means an identifiable area and population constituting a political subdivision of a state.

• *LOW-INCOME PERSON:* means a person having an income, adjusted for family size, of not more than—

(1) for metropolitan areas, the greater of 80 percent of the median income; and

(2) for non-metropolitan areas, the greater of—

(a) 80 percent of the area median income; or

(b) 80 percent of the statewide non-metropolitan area median income;

• *MICROENTREPRENEUR:* means the owner or developer of a microenterprise;

• *MICROENTERPRISE:* means a sole proprietorship, partnership, limited liability corporation or corporation that has fewer than 5 employees, including the owner, and generally lacks access to conventional loans, equity, or other banking services.

• *MICROENTERPRISE DEVELOPMENT ORGANIZATION OR PROGRAM:* means a nonprofit entity, or a program administered by such an entity, including community development corporations or other nonprofit development organizations and social service organizations, that provides services to disadvantaged entrepreneurs.

• *QUALIFIED ORGANIZATION:* means an organization eligible for a PRIME grant that is—

1. A microenterprise development organization or program as defined above (or a group or collaborative thereof) that has demonstrated a record of delivering microenterprise services to disadvantaged microentrepreneurs;

2. An intermediary, as defined above;

3. A microenterprise development organization or program as defined above that is accountable to a local community, working with a State or local government or Indian tribe; or

4. An Indian tribe acting on its own, if the Indian tribe can certify that no private organization referred to in this definition exists within its jurisdiction.

• *SEVERE CONSTRAINTS ON AVAILABLE SOURCES OF MATCHING FUNDS:* means the documented inability of a qualified organization applying for a PRIME grant to raise matching funds or in-kind resources from non-Federal sources during the 2 years immediately prior to the date of its application because of a lack of or increased scarcity of monetary or in-kind resources from potential non-Federal sources.

• *SMALL MICROENTERPRISE DEVELOPMENT ORGANIZATION OR PROGRAM:* means a microenterprise development organization or program with less than 10 full time employees or equivalents, including its executive director, as of the date it files its application with SBA for a PRIME grant.

• *TRAINING AND TECHNICAL ASSISTANCE:* means services and support provided to disadvantaged entrepreneurs, such as assistance for the purpose of enhancing business planning, marketing, management, financial management skills, and assistance for the purpose of accessing financial services.

• *VERY LOW INCOME PERSON:* means having an income adjusted for family size of not more than 150 percent of the poverty line (as defined in § 673(2) of the Community Services Block Grant Act (42 U.S.C. § 9902(2), including any revision required by that section).

XVI. Paperwork Reduction Act (44 U.S.C. Ch. 35)

The information being requested in this Program Announcement is needed to evaluate applicants and ensure that awards are made in furtherance of the PRIME program's objectives. The information will be used to grant awards to provide training and technical assistance to disadvantaged microentrepreneurs. Applicants' responses to the data collection requirements are necessary for them to receive a benefit under the Prime Program. The information provided by applicants will be kept confidential to the extent required by law. Applicants are not required to respond to the Program Announcement unless it displays a currently valid OMB number. SBA estimates it will take applicants 80 hours to respond.

XVII. Privacy Act (5 U.S.C. 552a)

Any person can request to see or get copies of any personal information that SBA has in the requestor's file, when that file is retrieved by individual identifiers, such as name or social security number. Requests for information about another party may be denied unless SBA has the written permission of the individual to release the information to the requestor or unless the information is subject to disclosure under the Freedom of Information Act (FOIA).

Note: Any person concerned with the collection, use and disclosure of information, under the Privacy Act may contact the Chief, Freedom of Information/Privacy Act Office, U.S. Small Business Administration, Suite 5900, 409 Third Street, SW, Washington, DC 20416, for information about the Agency's procedures relating to the Privacy Act and FOIA.

[FR Doc. 00–25428 Filed 10–6–00; 8:45 am]

BILLING CODE 8025–01–P

Federal Register

Tuesday,
October 10, 2000

Part III

Department of Energy

10 CFR Part 830

Nuclear Safety Management; Interim Final Rule

DEPARTMENT OF ENERGY

10 CFR Part 830

RIN 1901–AA34

Nuclear Safety Management

AGENCY: Department of Energy.

ACTION: Interim final rule and opportunity for public comment.

SUMMARY: This interim final rule amends the Department of Energy's (DOE or the Department) nuclear safety regulations to (1) establish and maintain safety bases for hazard category 1, 2, and 3 nuclear facilities and perform work in accordance with safety bases, and (2) clarify that the quality assurance work process requirements apply to standards and controls adopted to meet regulatory or contract requirements that may affect nuclear safety. The requirements in this rule apply to contractor-operated and government-operated nuclear facilities.

DATES: This rule is effective December 11, 2000. You may send comments for consideration until November 9, 2000.

ADDRESSES: Comments may be addressed to: Richard Black, Director, Office of Nuclear and Facility Safety Policy, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

You may also email an electronic copy of your comments to Mary.Haughey@eh.doe.gov.

You may examine written comments between 9:00 a.m. and 4:00 p.m. at the U.S. Department of Energy Freedom of Information Reading Room, Room 1E–190, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–3142.

FOR FURTHER INFORMATION CONTACT: Richard L. Black, (See address above), (301) 903–3465, richard.black@eh.doe.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

A. What Is the Procedural History of this Rule?

On December 9, 1991, we published Procedural Rules for DOE Nuclear Activities (56 FR 64290) and a Notice of Proposed Rulemaking and Public Hearing (1991 Notice, 56 FR 64316) to add Parts 820 and 830 to Title 10 of the Code of Federal Regulation (CFR). We proposed 10 CFR Part 820 (Part 820), Procedural Rules for DOE Nuclear Activities, to establish the procedural requirements for enforcement activities in accordance with the Price-Anderson Amendments Act of 1988 (PAAA or Price-Anderson). On August 17, 1993, we issued the Procedural Regulations for DOE Nuclear Activities in final form as 10 CFR Part 820 (58 FR 43680). Part 820 establishes the procedures for DOE enforcement actions and for issuing civil and criminal penalties for contractor, subcontractor, and supplier violations of DOE nuclear safety requirements.

Part 830 was proposed to establish nuclear safety management requirements for DOE nuclear facilities. We issued as final the sections of the Nuclear Safety Management rule (Part 830) related to the general provisions (§§ 830.1–830.7) and the quality assurance requirements (§ 830.120) on April 5, 1994 (1994 Notice, 59 FR 15843).

We issued a Notice of Limited Reopening of the Comment Period for the remaining topics to be addressed in Part 830 on August 31, 1995 (Reopening Notice, 60 FR 45381). The comment period was reopened to solicit and consider comments on a number of issues which had been raised since the 1991 Notice. The Reopening Notice provided an opportunity for contractors and other members of the public to comment on the effect of recent Department initiatives, such as safe management systems, the revision of the related nuclear safety Orders, and the identification of tailored Work Smart Standards (WSS) through the Necessary and Sufficient Closure Process, and on the scope, level of detail, and implementation of the proposed rules. We also requested comments on whether there should be a threshold for the application of nuclear safety management requirements and whether all nuclear safety requirements could be implemented in an integrated fashion through, for example, the use of a site-wide implementation program or system.

B. Has the General Accounting Office (GAO) Made Recommendations About This Rule?

On June 10, 1999, the GAO issued a report entitled DOE's Nuclear Safety Enforcement Program Should Be Strengthened. On June 29, 1999, Assistant Secretary of Environment, Safety and Health, Dr. David Michaels testified before the House Committee on Commerce that DOE endorsed the overall GAO conclusion that DOE's enforcement program has been effective and should be further strengthened. The GAO made three recommendations which are that DOE:

- Expeditiously complete the process of issuing enforceable rules covering important nuclear safety requirements,
- Ensure that field locations are properly following DOE's guidance in determining which facilities must comply with the nuclear safety rule on quality assurance, and
- Eliminate the administrative exemption from paying civil penalties for violations of nuclear safety rules that DOE granted to nonprofit educational institutions.

This rule completes DOE's rulemaking regarding nuclear safety management. This rule also reaffirms that the quality assurance requirements of this rule apply to contractors for all DOE nuclear facilities, including hazard category 1, 2, and 3 nuclear facilities and ''below hazard category 3 nuclear facilities'' (nuclear facilities whose hazards are less than hazard category 3) as defined in DOE Standard (STD) 1027, Change Notice 1, Hazard Categorization and Accident Analysis Techniques for Compliance with DOE Order 5480.23, Nuclear Safety Analysis Reports, September 1997, U.S. Department of Energy, Washington, D.C. 20585.

The PAAA specifically excludes seven nonprofit contractors and their subcontractors and suppliers from civil monetary penalties for violations of the nuclear safety requirements. For consistency, 10 CFR 820.20(d) extends that exclusion to all nonprofit educational institutions. Those exclusions are not within the scope of this rule and therefore are not discussed in this rulemaking.

C. What Substantive Requirements Are Proposed in This Rule?

In the 1991 Notice, we proposed that the following nine topics be included in the nuclear safety management rules:

- Quality assurance requirements,
- Safety analysis reports,
- Technical safety requirements,
- Unreviewed safety question (USQ),
- Conduct of operations,
- Maintenance management,
- Training and certification,
- Defect identification and reporting, and
- Occurrence reporting and processing.

The quality assurance requirements were published in 1994 and are revised in this Notice. The safety basis requirements being added address three of the topics from the 1991 Notice: safety analysis reports, technical safety requirements, and USQ. Three of the remaining five nuclear safety management topics from the 1991 Notice (conduct of operations, maintenance management, and training and certification) are expected to be addressed through the documented safety analysis required by the safety basis requirements and the work processes required by the quality

assurance requirements. Specifically, the documented safety analysis will establish what training, maintenance, and conduct of operations are required for safety. Compliance with the safety basis and quality assurance provisions of this rule will ensure that these safety functions are established, maintained, and implemented.

Defect identification and occurrence reporting and processing will continue to be addressed through contract provisions that require contractors to use the DOE Occurrence Reporting and Processing System (ORPS). We intend to maintain DOE Order 232.1A, Occurrence Reporting and Processing of Operations Information, and DOE Manual 232.1–1A, Occurrence Reporting and Processing of Operations Information, so that they can be adopted through contract requirements. Consequently, we believe that the nine topics proposed in the 1991 Notice are adequately covered through the combination of this rule and contract requirements.

D. Why Is DOE Issuing This Rule as an Interim Final Rule?

We are issuing this rule as an interim final rule to give the public further opportunity to comment. The public has until November 9, 2000 to submit comments on the rule. This regulation then becomes effective December 11, 2000. If DOE decides to amend this rule based on comments received, we will issue a **Federal Register** Notice to state those changes; otherwise this rule will become effective, as written, on December 11, 2000. Pending the effective date of this new rule, the quality assurance provisions of the current rule in 10 CFR 830.120 remain in effect and fully enforceable.

II. Summary of Changes

The changes to Part 830 are primarily to

- Convert the rule to ''plain language'',
- Clarify the scope of the rule,
- Add provisions requiring the integration of quality assurance with the Safety Management System (SMS) [Part 830, Subpart A],
- Clarify that the work process provisions of quality assurance apply to standards and controls adopted to meet regulatory and contractual requirements relating to nuclear safety [Part 830, Subpart A], and
- Add provisions for nuclear facility safety bases [Part 830, Subpart B].

Plain Language

A. Why Is DOE Converting the Rule to Plain Language?

In 1998, President Clinton signed a presidential memo requiring agencies to use plain language principles for most of their written communications. While this memo does not require us to use plain language for regulations that were proposed before January 1, 1999, we chose to revise it in the plain language style because we were revising a substantial portion of Part 830. Plain language requirements vary depending upon the document, but the intent is to make the government language easier to understand. We are reformatting the rule to use

- Common, everyday words, except for necessary technical terms;
- Active voice; and
- Short sentences.

The word ''shall'' is being replaced with the word ''must'' to indicate an obligation. The word ''may'' is used for permission.

Because we are revising the text of the rule to the plain language format, we have rewritten the quality assurance requirements in this rule; however there are few significant changes. The significant changes are described in this summary.

General Sections

B. What Changes Are Made to § 830.1, Scope?

Section 830.1, Scope, is being revised to state that the rule governs the conduct of DOE contractors, DOE personnel, and other persons conducting activities (including providing items and services) that affect, or may affect, the safety of DOE nuclear facilities. Previously, Part 830 only applied to activities conducted at a DOE nuclear facility. This change will ensure that Part 830 requirements are applicable to all activities performed for or on behalf of DOE that have the potential to affect nuclear safety. Some activities subject to Part 830 requirements may occur outside a nuclear facility and even may be conducted off a DOE site. The nuclear safety management requirements may apply to these activities. If a supplier furnishes safety items or services that either are, or will be, used at a nuclear facility, then that supplier falls within the scope of the rule provisions. Similarly, contractor activities performed in support of facility operations, such as training of operators or maintenance of safety equipment, fall under the scope of the rule to the extent the activities relate to nuclear safety. Furthermore, a nonreactor nuclear facility is broadly defined to include not only buildings, but also activities and operations involving radioactive and/or fissionable materials in such form or quantity that a nuclear hazard or a nuclear explosive hazard potentially exists to workers, the public, or the environment.

We also are revising Paragraph 830.1 to add ''DOE personnel.'' This change is consistent with the change to paragraph 830.4(d).

C. What Changes Are Made to the Exclusions in § 830.2?

The exclusion for the Nuclear Explosives and Weapons Safety Program (weapons exclusion) is being deleted. Three new exclusions are being added relating to:

- Transportation;
- Facilities and activities conducted under the Nuclear Waste Policy Act of 1982, as amended (NWPA); and
- Activities related to the launch approval and actual launch of nuclear energy systems into space.

In addition, the reference to the Public Law authorizing the Director Naval Nuclear Propulsion has been updated to Public Law 106–65. Public Law 106–65 also established the National Nuclear Security Administration in DOE.

Deletion

Nuclear Explosives and Weapons Safety Program. When we proposed the Nuclear Safety Management rule (Part 830) in the 1991 Notice and the Reopening Notice, we were concerned that conflicts could arise between nuclear safety requirements and the nuclear explosives weapons safety requirements. Today we are including specific methods by which nuclear explosive operations and their associated activities may meet Subpart B to Part 830 that are consistent with nuclear explosives safety. Therefore, we no longer need to exclude the Nuclear Explosives and Weapons Safety program, and we are deleting that exclusion. This change makes clear that this rule applies to nuclear explosives facilities and their associated nuclear explosive operations and activities.

Additions

1. *Transportation.* All transportation activities were excluded in the definition of nonreactor nuclear facility published in the 1994 Notice. The definition of nonreactor nuclear facility that we are publishing today does not exclude transportation activities. Instead, we are adding an exclusion for certain transportation activities to

§ 830.2. The exclusion for transportation activities in paragraph 830.2(d) is narrower than the exclusion for transportation activities previously contained in the definition for nonreactor nuclear facility. It only excludes transportation activities that are regulated by the Department of Transportation (DOT). We are excluding transportation activities that are regulated by DOT to avoid duplicate regulation by DOE and DOT. Transportation issues are discussed in greater detail in the discussion of responses to public comments.

2. *Activities conducted under the NWPA.* These activities are designated for licensing by the Nuclear Regulatory Commission (NRC), and the design and construction of these activities must meet NRC requirements in order for them to receive an NRC license. Facilities that are licensed by the NRC are already excluded from this Part following issuance of a license to operate by the NRC. This new exclusion will cover activities under the NWPA for the period of time preceding licensing by the NRC. An example of an activity conducted under NWPA is the Yucca Mountain Project. Activities conducted under NWPA should implement and comply with NRC regulations in anticipation of NRC licensing, not DOE nuclear safety regulations. Therefore, they are excluded from this rule.

3. *Activities related to the launch approval and actual launch of nuclear energy systems.* The new exclusion recognizes that some nuclear energy systems are developed and built by DOE contractors for missions to be launched into space. These missions are generally sponsored by the National Aeronautics and Space Administration. Safety analyses activities for such systems are conducted consistent with established executive policy and applicable DOE directives for systems and equipment developed for space launches, and the results of that analysis will be considered during launch decisions. Because these analyses are performed for other government agencies and approved by the Office of the President, they do not need to be governed by the requirements in Part 830. Manufacturing, assembly, and testing of these systems by DOE contractors are not excluded from this rule.

D. What Changes Are Made to § 830.3, Definitions?

We are adding, revising, and deleting a number of definitions in Part 830 to support new requirements or the formatting change to plain language.

• *Added Definitions.* We are adding the following definitions for use in Part 830: bases appendix; critical assembly; criticality; design features; documented safety analysis; environmental restoration activities; existing DOE nuclear facility; hazard controls; limiting conditions for operation; limiting control settings; low-level residual fixed radioactivity; major modification; new DOE nuclear facility; operating limits; preliminary documented safety analysis; safety basis; safety class structures, systems, and components; safety evaluation report; safety limits; Safety Management System; safety management program; safety significant structures, systems, and components; safety structures, systems, and components; surveillance requirements; technical safety requirements; Unreviewed Safety Question; Unreviewed Safety Question process; and use and application provisions. Additional discussion on these added definitions is provided in the following paragraphs.

a. *Basis appendix, design features, limiting conditions for operation, limiting control settings, operating limits, safety limits, surveillance requirements, and use and application provisions.* These are all terms that are used in Subpart B of Part 830 to describe the DOE requirements for hazard controls in the form of technical safety requirements. These terms are also currently used in DOE Order 5480.22, Technical Safety Requirements, and are intended to be consistent with that order.

b. *Critical assembly.* The term critical assembly is used in this rule to define the term reactor. Critical assembly was formerly defined within the definition for reactor. It is listed as a separate definition to simplify the definition of reactor.

c. *Criticality.* Criticality is the condition in which a nuclear fission chain reaction becomes self-sustaining. A contractor responsible for a nuclear facility with fissionable material in a form and amount sufficient to pose a potential for criticality is required to define their criticality safety program in their documented safety analysis.

d. *Documented safety analysis.* A documented safety analysis is a report that documents the adequacy of the analysis of a facility or activity to ensure that it can be constructed, operated, performed, maintained, shut down, and decommissioned safely and in compliance with applicable requirements. Depending upon the type of facility and the method approved by DOE to prepare a documented safety analysis for the facility, the documented safety analysis might be in the form of a safety analysis report, a Basis for Interim Operation or BIO (prepared in accordance with DOE–STD–3011–94, Guidance for Preparation of DOE 5480.22 (TSR) and DOE 5480.23 (SAR) Implementation Plans, November 1994 or its successor document), a safety and health plan or HASP (as defined in 29 CFR 1910.120 or 1926.65), or a combination of a safety analysis report and a hazard analysis report (HAR). This term is used in the new safety basis requirements.

e. *Environmental restoration activities.* Environmental restoration activities are the processes by which contaminated sites and facilities are identified and characterized. It is also the process by which existing contamination is contained or removed. These activities include environmental remediation of contaminated soils. Environmental restoration activities are considered to be nuclear facilities if the activities involve radioactive and/or fissionable materials in such form and quantities that a nuclear hazard or a nuclear explosive hazard potentially exists. This term is used in the new safety basis requirements.

f. *Existing DOE nuclear facility and new DOE nuclear facility.* This rule imposes different safety basis requirements in Subpart B for new facilities versus existing facilities. The first difference is related to the development of a preliminary documented safety analysis for new nuclear facilities, which is not required for existing nuclear facilities. The second difference is with respect to schedules as specified in the rule. We consider an existing DOE nuclear facility to be a DOE nuclear facility that is or has been in operation prior to April 9, 2001. New nuclear facilities are facilities, activities and operations that begin operations on or after April 9, 2000.

For activities, such as decontamination or environmental restoration, for which the term ''operate'' is less clear, DOE intends the term to mean from the date a new decontamination or environmental restoration activity begins.

We consider new DOE nuclear facilities to include (1) construction of a new DOE facility which is intended to be used as a nuclear facility; (2) use of an existing non-nuclear DOE facility to possess, use or store radioactive or fissionable material in such form and quantity that a nuclear hazard potentially exists; and (3) initial possession, use, or storage of radioactive or fissionable material in such form and

quantity that a nuclear hazard potentially exists. We also consider the change from operation of a DOE nuclear facility to deactivation, decontamination, decommissioning, or environmental restoration to be a new DOE nuclear activity subject to the schedules for a new nuclear facility.

Many DOE nuclear facilities, particularly those that perform nuclear explosives operations, are designed to accommodate changing missions. These facilities and activities require both a generic form of documented safety analysis and an operation- or activity-specific form of documented safety analysis. One form of operation- or activity-specific documented safety analysis is defined in Appendix A, Table 3 as a specific nuclear explosive operation. We do not consider a specific nuclear explosive operation to be a ''new DOE nuclear facility.''

g. *Hazard controls.* Hazard controls means measures to eliminate, limit, or mitigate hazards to workers, the public, or the environment including (1) physical, design, structural and engineering features; (2) safety structures, systems and components; (3) safety management programs; (4) technical safety requirements; and (5) other controls necessary to provide adequate protection from hazards. Although the hazard controls are required to address nonradiological hazards as well as radiological hazards, we will only pursue PAAA enforcement actions for noncompliances that have nuclear safety significance.

h. *Low-level residual fixed radioactivity.* Low-level residual fixed radioactivity is the radioactivity remaining following reasonable efforts to remove radioactive systems, components, and stored materials and is composed of:

- Surface contamination that remains fixed following chemical cleaning or some similar process;
- A component of surface contamination that can be picked up by smears; or
- Activated materials within structures.

Although the definition permits some smearable surface contamination (i.e., removable contamination), the smearable radioactivity must be less than the values defined for removable contamination by 10 CFR Part 835, Appendix D, Surface Contamination Values. In addition, the results of the hazard analysis must show that no credible accident scenario or work practices would release the fixed or activated components of remaining radioactivity at levels that would prudently require the use of active safety systems, structures, or components to prevent or mitigate a release of radioactive materials.

This definition is generally consistent with the definition for this term in DOE–STD–1120–98, Integration of Environment, Safety and Health into Facility Disposition Activities, May 1998.

i. *Major modification.* A major modification means a modification to a DOE nuclear facility that is completed on or after April 9, 2001 and which substantially changes the existing safety basis for the facility. Because these changes have a significant effect on the safety basis of a nuclear facility, we expect contractors to develop a preliminary documented safety analysis that addresses these modifications and their impacts on the safety of the nuclear facility so DOE may review the proposed changes before they are implemented. Before operating the nuclear facility in the modified configuration or conducting modified operations, contractors must obtain approval of the upgraded safety basis from DOE and make any changes to the safety basis directed by DOE.

We treat major modifications to hazard category 1, 2, and 3 DOE nuclear facilities, such as the replacement of a major safety system, equivalent to the design, construction, and initial operation of a new facility. Because contractors for major modifications must revise their safety basis documents to reflect the major modifications and obtain DOE approval of the revised safety bases prior to making the modification, they do not need to assess major modifications under the USQ process of Subpart B.

j. *Preliminary documented safety analysis.* The preliminary documented safety analysis is the documentation prepared in connection with the design and construction of a new hazard category 1, 2, or 3 DOE nuclear facility or a major modification to a hazard category 1, 2, or 3 DOE nuclear facility. It is part of the safety basis requirements, and it serves as the principal safety basis for the DOE decision to authorize procurement, construction, or preoperational testing.

k. *Safety basis.* A safety basis for a DOE nuclear facility is documented in the documented safety analysis and the hazard controls for the nuclear facility. As changes are made or potential inadequacies of the safety analysis are discovered, contractors must perform USQ determinations. The results of the USQ determinations and any associated safety evaluations are part of the safety basis for the facility.

l. *Safety class structures, systems, and components.* Safety class structures, systems, and components means structures, systems, or components, including portions of process systems, whose preventive or mitigative function is necessary to limit radioactive hazardous material exposure to the public, as identified by the safety analysis.

m. *Safety evaluation report or SER.* The SER is the documented safety evaluation performed by DOE on the safety basis documents for a facility that are developed by the contractor. It includes the reasons for approving the safety basis and any conditions for approval. Contractors are required by the safety basis requirements to meet any conditions stated in the SER.

n. *Safety Management System (SMS).* Safety Management System means an integrated safety management system established consistent with the Department of Energy Acquisition Regulation (DEAR) in 48 CFR 970.5204–2, Integration of Environment, Safety, and Health into Work Planning and Execution, or any successor regulation. Additional information on SMS may be found in DOE Policy 450.4, Safety Management System Policy; DOE Guide 450.4–1A, Integrated Safety Management System Guide.

o. *Safety management program.* Safety management programs are programs designed to ensure a facility is operated in a manner that adequately protects workers, the public, and the environment. Contractors may have already developed safety management programs to comply with contract requirements for Safety Management Systems. Subpart B of the rule requires contractors to define the characteristics of the safety management programs for the facility that are necessary for safe operations, including, where applicable, quality assurance, procedures, maintenance, personnel training, conduct of operations, emergency preparedness, fire protection, waste management, and radiation protection. They may also include criticality safety programs for nonreactor nuclear facilities with fissionable material in a form or amount sufficient to pose a potential for criticality. Rather than repeating or reinventing these programs for the documented safety analysis, contractors may incorporate existing programs by reference into the documented safety analysis provided these programs are sufficient to provide adequate protection. Contractors may need to include a copy of documents that are incorporated by reference with the documented safety analysis when it

is submitted to DOE for review and approval.

p. *Safety significant structures, systems, and components.* Safety significant structures, systems, and components means systems, structures, and components which are not designated as safety class systems, structures, and components, but whose preventive or mitigative function is a major contributor to defense in depth (*i.e.,* prevention of uncontrolled material release) and/or worker safety as determined from hazard analyses.

q. *Safety structures, systems, and components.* Safety structures, systems, and components are the combination of safety class systems, structures, and components and safety significant systems, structures, and components.

r. *Technical safety requirements.* Technical safety requirements are the limits, controls and related requirements necessary for the safe operation of a nuclear facility that are appropriate for the work and the hazards. Technical safety requirements include safety limits, operating limits, surveillance requirements, administrative and management controls, use and application provisions, and design features, as well as a bases appendix. These requirements are also consistent with the criteria for technical safety requirements in DOE Order 5480.22 which generally have been implemented by contractors for DOE hazard category 1, 2, and 3 nuclear facilities.

s. *Unreviewed Safety Question (USQ).* A situation involves a USQ if (1) the probability of the occurrence or the consequences of an accident or the malfunction of equipment important to safety previously evaluated in the documented safety analysis could be increased; (2) the possibility of an accident or malfunction of a different type than any evaluated previously in the documented safety analysis could be created; (3) a margin of safety could be reduced; or (4) the documented safety analysis may not be bounding or may be otherwise inadequate. If a situation involves a USQ, the contractor must use the USQ process to determine if the change or the potential inadequacy of the documented safety analysis needs to be submitted to DOE for review and approval.

t. *Unreviewed Safety Question Process.* The USQ process permits a contractor to make physical and procedural changes to a nuclear facility and to conduct tests and experiments without prior DOE approval, provided these changes do not explicitly or implicitly affect the safety basis of the nuclear facility. The USQ process provides a contractor with the flexibility needed to conduct day-to-day operations by requiring that only those changes and tests with a potential to impact the safety basis (and therefore the safety of the nuclear facility) be brought to the attention of DOE. This allows DOE to focus its review on those changes significant to safety. The USQ process is an important tool for keeping the safety basis current by ensuring changes are appropriately reviewed and incorporated into the safety basis. The USQ process provides a method for contractors to determine if a USQ is involved and the actions to take if the situation involves a USQ. DOE approval is required before a change is made that affects the safety basis of a DOE nuclear facility.

2. Revised Definitions

The following terms are continued in this Part, but their definitions are revised:

a. *Document.* The second sentence of this definition regarding when a document is a record is being deleted as unnecessary to the definition. This change does not affect the meaning of the terms document and record.

b. *Graded Approach.* The definition of graded approach is being revised to include an additional condition for grading: ''the relative importance of radiological and nonradiological hazards.''

c. *Hazard.* Minor editorial changes were made that do not affect the meaning.

d. *Nonreactor nuclear facility*. We are making the following changes to the definition for nonreactor nuclear facility.

i. *Facilities.* We are adding the word ''facilities'' in the definition so that it reads ''Nonreactor facilities means those facilities, operations and activities * * *'' to make it clear that facilities are included in the definition. The word ''facility'' as it is used in this term is broadly defined to include buildings, operations, and activities and, in some cases, the surrounding area.

ii. *Nuclear explosive hazard.* We are adding the words ''* * * or a nuclear explosive hazard * * *'' to clarify that nuclear explosive facilities, and the nuclear explosive operations conducted therein, are included in the definition of nonreactor nuclear facility.

iii. *Transportation exclusion.* We are deleting the exclusion of transportation activities from the definition, but we are continuing to exclude transportation activities regulated by DOT from the scope of Part 830 through an added exclusion in § 830.2. This narrows the exclusion for transportation activities and is discussed in greater detail in the response to public comments.

iv. *Examples.* The definition of nonreactor nuclear facility previously listed six examples of facilities and activities to be included in the definition. Some persons took these examples to mean that nonreactor nuclear facilities were limited to the specific examples stated. We are deleting the six examples because we do not want to imply that this is a definitive list. Except for the change relating to services to nuclear facilities, which is discussed in the next paragraph, the deletion of the six examples is not intended to change the scope of the definition of nonreactor nuclear facilities.

v. *Services.* The previously listed examples of nonreactor nuclear facilities included design, manufacturing, and assembly. While we continue to consider design, manufacturing, and assembly to be important to the safe operation of a nuclear facility, under the revised definition for a nonreactor nuclear facility, unless the facility where these activities occur also involves, or will involve, radioactive and/or fissionable materials in such form and quantity that a nuclear hazard potentially exists, it is no longer considered to be a nuclear facility. Rather, these activities are considered to be services. Furthermore, we have clarified the requirements in the rule relating to services which are provided to nuclear facilities.

The change relating to services provided to a nuclear facility will affect the application of the rule to facilities which provide services to nuclear facilities, but do not use, possess, or store radioactive or fissionable materials. Under this change, contractors for facilities which provide items and services that may affect nuclear safety, but do not use, store, or possess radioactive or fissionable materials (now or at a later date), must perform their activities in accordance with the quality assurance criteria of Subpart A of this rule, but are not required by this rule to submit a Quality Assurance Program (QAP) to DOE for approval. They may, however, have separate contract requirements for a QAP that they will need to meet. In addition, facilities that provide services or items, but do not expect to use, store, or possess radioactive or fissionable material now or in the future, are not required to meet the safety basis requirements of Subpart B. This change is consistent with the changes to the scope (§ 830.1) relating to items and services that may affect nuclear safety.

vi. *Incidental Use.* We are continuing to exclude incidental use from the definition of nonreactor nuclear facility, however we are making a minor revision to one of the examples. We are adding the word ''radiation'' to read ''Incidental use and generation of radioactive materials or radiation including . . . '' This change is to acknowledge that the use of X-ray machines and electronic microscopes does not involve radioactive materials but does produce radiation. This exclusion is for activities that involve such insignificant amounts of radioactive materials or radiation (*e.g.,* X-ray machines, check and calibration sources, electron microscopes, use of radioactive sources in research, experimental, and analytical laboratory activities) that the amounts do not warrant consideration as a nuclear facility and their use does not need to be regulated by this rule. However, some of the uses would still be subject to the radiation protection requirements in 10 CFR Part 835 (Part 835), Occupational Radiation Protection. Other applications of this rule to incidental uses will be handled by DOE on a case-by-case basis.

e. *Nuclear facility.* We are revising the definition of nuclear facility to make it clear that nuclear facilities include any related area, structure, facility, or activity to the extent necessary to ensure proper implementation of the requirements established by Part 830. The nuclear facility may be on or off a DOE site. The facility may be wholly or partially owned or controlled by DOE. This change was made, in part, to address concerns stated in the GAO report that the term nuclear facility was being interpreted too narrowly for purposes of applying the Part 830 requirements.

Nuclear facilities include facilities, operations, and activities whose intended use will require them to possess, use, or form radioactive or fissionable materials. Many activities performed at or for facilities where fissionable material will be stored, used, or formed take place before the introduction of these materials at the facility. Consequently, nuclear facilities also include facilities that will use, store, or possess radioactive or fissionable material in a form or quantity that a nuclear hazard potentially exists to workers or the public.

Nuclear facilities include both reactors and nonreactor nuclear facilities. A nonreactor nuclear facility is broadly defined to include facilities, activities, and operations involving the possession, use, or formation of radioactive or fissionable materials that are conducted by or on behalf of DOE regardless of whether they are conducted onsite or offsite. The term ''DOE nuclear facility'' and ''nuclear facility'' are used interchangeably in the rule because those terms relate to those activities conducted by or on behalf of DOE that affect or may affect the safety of DOE nuclear facilities. The use of the term ''DOE nuclear facility'' does not necessarily require the facility to be owned by DOE.

f. *Quality Assurance Program or QAP.* We are making a minor change to the definition of QAP to add the words ''or management system'' to clarify that the QAP is a management system.

g. *Reactor.* We are changing the definition of reactor to move the definition of critical assembly to a separate definition. The definition of reactor is also being revised to read more clearly. These changes do not affect the meaning of the definition.

h. *Service.* We are adding the following terms to the definition of service to make clear that these are services: manufacturing, assembly, decontamination, environmental restoration, waste management, and laboratory sample analyses.

3. Deleted Definitions

We are deleting the definitions for contractor, Department or DOE, and person from this rule and incorporating them by reference to the Atomic Energy Act (Act) and 10 CFR Part 820. Paragraph 830.3(b) is revised to read ''(b) Terms defined in the Act or in 10 CFR Part 820 and not defined in this section of the rule are used consistent with the meanings given in the Act or in 10 CFR Part 820.'' We are deleting the definition for Implementation Plan because the term is no longer used in Part 830.

E. What Changes are Made to § 830.4, General Requirements?

1. Changes to Paragraph 830.4(a)

We are deleting the language in paragraph 830.4(a) that referred to plans, programs, schedules, or other processes. This language is redundant to the requirement in 10 CFR 820.20(b)(3) and, therefore, is not needed.

2. Changes to Paragraph 830.4(b)

The contractor responsible for a nuclear facility is also expected to ensure compliance with the rule. We have simplified the language but there is no substantive change.

The ''contractor responsible for a nuclear facility'' is the ''prime contractor'' for the facility. The prime contractor is the contractor whose work for the facility (including operations and activities) is contracted directly with DOE. The prime contractors include management and operating (M&O) contractors, management and integration (M&I) contractors, and environmental restoration contractors. DOE expects its prime contractors to implement mechanisms to oversee and ensure that subcontractors and suppliers comply with the nuclear safety management requirements. Furthermore, prime contractors are expected to incorporate these expectations and the associated programs in contracts and other procurement documents with their subcontractors and suppliers. This requirement does not relieve subcontractors and suppliers from their responsibilities in accordance with this rule.

3. Changes to Paragraph 830.4(c)

We are rewriting paragraph 830.4(c) to state that the requirements of Part 830 must be implemented in a manner that provides reasonable assurance of adequate protection. This is consistent with DOE's statutory mandate under the Act. Paragraph 830.4(c) also requires contractors to implement the requirements in a manner that takes into account the work to be performed and the associated hazards. This is consistent with the principles of integrated safety management and the concept of grading.

4. Addition of Paragraph 830.4(d)

We are adding a new paragraph 830.4(d) to state where there is no contractor for a DOE facility, DOE must ensure implementation and compliance with the requirements of this Part. This amendment makes the requirements of this rule applicable to government-owned, government-operated (GOGOs) DOE nuclear facilities, as well as the nuclear facilities that are operated by contractors. Many of the requirements in this rule are addressed to contractors. Paragraph 830.4(d) makes clear that where DOE, rather than a contractor, is responsible for operating a nuclear facility, DOE must ensure that the activities and operations for that facility meet the requirements of this rule.

F. What Changes are Being Made to § 830.7, Graded Approach?

This section is being changed to state that, where appropriate, contractors must use a graded approach to implement the requirements of Part 830 and they must document the basis of the graded approach used. Contractors are already required to implement the

quality assurance requirements using a graded approach. The use of the graded approach is not appropriate in implementing the USQ process or in implementing technical safety requirements that establish clearly defined limits or actions.

Subpart A

Quality Assurance Requirements

G. What Changes are Being Made to the Scope and the Format of the Quality Assurance Requirements in Subpart A?

First, we are changing the numbering of the quality assurance requirements. Subpart A is being renamed to ''Quality Assurance Requirements'' and the requirements are contained in §§ 830.120, 830.121, and 830.122. Second, we are changing the format of the quality assurance requirements to read in plain language.

We are making conforming changes to the quality assurance requirements to agree with the changes made to the scope of Part 830 (§ 830.1) and to the definitions of contractor, nuclear facility, and services. We have revised the scope of the quality assurance rule to require contractors (including those responsible for supplying items and services) that conduct activities that affect, or may affect, the safety of a nuclear facility to conduct work in accordance with the quality assurance criteria of § 830.122. This makes clear that quality assurance requirements apply not only to prime contractors responsible for a nuclear facility, but also to subcontractors, suppliers, and other contractors, including those who provide items (such as pumps, valves, waste containers, piping, and electrical or mechanical devices) or services (such as design, engineering, maintenance, and welding) that affect, or could affect, nuclear safety. The quality of procured items such as fire suppression equipment may, or may not, affect nuclear safety depending upon the application of the equipment. DOE expects the contractor responsible for the nuclear facility (typically the prime contractor) to determine how to flow the quality assurance requirements down to subcontractors and suppliers, as well as the method for ensuring that procured items and services meet requirements and perform as expected. The contractor must also determine if the subcontractor or supplier is capable of providing items and services that meet the requirements including the quality assurance criteria. We have added a requirement for the QAP to describe how the contractor responsible for a nuclear facility ensures that subcontractors and suppliers satisfy the quality assurance criteria.

The scope of § 830.120 makes clear that the quality assurance criteria may apply to activities outside a nuclear facility, and even those conducted off a DOE site, if they can affect the safe operation of a DOE nuclear facility.

H. Are Subcontractors and Suppliers Expected To Submit a QAP to DOE for Approval?

As stated in the preamble to the 1994 Notice, subcontractors and suppliers are not expected to submit QAPs to DOE for review and approval. The requirement in the rule for contractors to submit QAPs to DOE for approval applies only to the contractors responsible for the nuclear facility (the prime contractors). However, while only contractors responsible for the nuclear facility are required by this rule to submit QAPs to DOE for approval, prime contractors are expected to use their contracts and other arrangements with subcontractors and suppliers to define what procured items or services are subject to quality assurance requirements (including QAPs) and how their subcontractors and suppliers are to comply with those requirements. Criterion 7 in the Quality Assurance Requirements requires contractors to (a) procure items and services that meet established requirements and perform as specified, (b) evaluate and select prospective suppliers on the basis of specified criteria, and (c) establish and implement processes to ensure that approved suppliers continue to provide acceptable items and services. This criterion is meant to ensure that safety components do not fail while in service and that the fabrication or assembly of safety-related components and systems meet design specifications.

To the extent a contract or a related document states that a subcontractor or supplier must comply with a QAP, the subcontractor or supplier must meet that requirement. Any person, including subcontractors or suppliers subject to the requirements in a QAP, may be subject to enforcement actions under 10 CFR Part 820 if those requirements are violated.

I. What Changes Are Being Made to the Requirements for the QAP?

We are:

- Adding a requirement for contractors to identify and document the voluntary consensus standards they relied upon to develop and implement their QAP,
- Adding a requirement for contractors with an SMS to integrate the SMS with the QAP,
- Clarifying that the work process provision is to be read broadly to include all standards and controls adopted to meet regulatory and contract requirements, and
- Making a number of format and plain language changes with no substantive effect.

J. Why Are We Requiring Contractors To Identify the Voluntary Consensus Standards They Use?

Most contractors use standards (e.g., American Society of Mechanical Engineers' NQA–1 standard) to develop their QAPs, but they have not always documented their use of these standards in the QAP. We are adding this requirement to ensure we clearly understand what voluntary consensus standards contractors are using to develop their QAPs. This is consistent with the requirement in the National Technology Transfer and Advancement Act of 1995 (Public Law 104–113) that government agencies adopt or use voluntary consensus standards when they are applicable and appropriate.

K. Why Is DOE Adding a Requirement for Contractors To Integrate Their QAP With Their SMS?

The Department expects that quality assurance criteria and practices will be embedded in all work processes, not just those that relate to nuclear safety. Therefore, the actions to implement the quality assurance criteria should be integrated with and consistent with the commitments in the SMS. This helps ensure that quality assurance criteria and practices will apply to all work processes that are implemented for safety management. For this reason, we are adding § 830.121(c)(2) to require contractors to integrate their QAP with their SMS. In addition, we wanted to provide a means for contractors to combine the two documents if they wished to reduce the paperwork burden so we have included an option that permits contractors to combine the QAP and the SMS into a single document. The two ways a contractor can document the integration of its QAP and its SMS are:

- The contractor may choose to retain its QAP and its SMS description as separate documents. If the contractor does this, its QAP must describe how the contractor applied the quality assurance criteria of § 830.122 to its integrated SMS; or
- The contractor may choose to integrate its QAP into its SMS description and not have a separate QAP. If the contractor does this, its SMS description must describe how the quality assurance criteria of § 830.122 are met.

If the contractor chooses to maintain a separate QAP and the DOE-approved QAP does not address SMS integration and standards identification, the contractor will need to revise its QAP. The contractor may wait and submit its revised QAP to meet the SMS integration requirement at the time of its next annual update of its QAP. We recently revised our Quality Assurance Management System Guide (DOE G 414.1–2) for use with 10 CFR 830.120. The guide provides information on how quality assurance integrates with and supports the Department's SMS policy.

Use of this guide will facilitate implementation of § 830.121(c)(2) and the effective integration of the quality and safety management systems.

This change is consistent with provisions of 48 CFR 970.5204–2 that state contractors are to provide SMS descriptions. If the contractor does not have a DOE-approved SMS, it is not required to integrate its QAP with its SMS.

L. Why Is DOE Deleting the Requirement for a Quality Assurance Implementation Plan?

Implementation plans were an option made available for contractors who needed a transition period for bringing existing facilities and activities into compliance with the quality assurance requirements. The regulatory requirements for a QAP were issued over six years ago and there is no longer any need for a transition period.

M. Why Is DOE Clarifying the Work Process Provision?

We are revising criterion 5 on work processes to make clear that work must be performed in accordance with standards and hazard controls adopted to meet contract or regulatory requirements. This clarification provides added emphasis that contractor work processes are very broadly interpreted under the quality assurance requirements and includes work-related standards, instructions, procedures, administrative controls, technical safety requirements, and other hazards controls.

Subpart B

N. What Changes Are Being Made to Subpart B?

We are adding §§ 830.201 through 830.207 to Subpart B of Part 830 to include requirements for contractors to develop safety basis documents for DOE hazard category 1, 2, and 3 nuclear facilities and comply with those documents. These changes are discussed in greater detail in the Discussion of Safety Basis Requirements in Subpart B.

Subparts C and D

O. Is DOE Continuing to Reserve Subparts C and D?

Subparts C and D, which were reserved for future rulemaking are no longer needed and, consequently, are being deleted.

III. Discussion of Safety Basis Requirements in Subpart B

Section 830.200, Scope

A. Do the Safety Basis Requirements Apply to all DOE Nuclear Facilities?

No. The safety basis requirements of this Part only apply to DOE hazard category 1, 2, and 3 nuclear facilities. Unlike the general and quality assurance requirements of this rule, the safety basis requirements do not apply to contractors for ''below hazard category 3'' nuclear facilities. DOE expects its contractors to retain documentation for each of its nuclear facilities to support the determination that the nuclear facility is either a hazard category 1, 2, or 3 nuclear facility or below category 3.

In summary, using DOE–STD–1027, a hazard category 1 nuclear facility has the potential for significant offsite consequences. A hazard category 2 nuclear facility has the potential for significant on-site consequences beyond localized consequences. A hazard category 3 nuclear facility has the potential for only local significant consequences. A below hazard category 3 facility has the potential for consequences less than the other categories. Below category 3 facilities are sometimes referred to as ''radiological facilities.'' While the safety basis provisions in Subpart B do not apply to below hazard category 3 nuclear facilities, the QA requirements in Subpart A and the occupational radiation protection requirements in 10 CFR Part 835 do apply.

Section 830.201, Performance of Work

B. What Are the ''Performance of Work'' Requirements for a Safety Basis?

Contractors must perform work in accordance with the DOE-approved safety basis for a DOE hazard category 1, 2, or 3 nuclear facility. This includes prime contractors to DOE, subcontractors, and suppliers. The definition of ''work'' as applied to this rule is very broad and encompassing. It includes any defined task or activity that may affect a safety basis for a facility. It includes such diverse activities as operations, research and development, environmental restoration and remediation, maintenance and repair, design and construction, software development and use, inspection, data collection, administration, and analysis.

Section 830.202, Safety Basis

C. What Are the Requirements for Establishing a Safety Basis for a DOE Category 1, 2, or 3 Nuclear Facility?

The proper analysis of facility, operations, and activity hazards, the development of appropriate hazard controls for the work to be conducted, and the performance of work consistent with the approved safety basis are necessary for work at nuclear facilities to be performed safely. The safety basis requirements in this rule are derived from the proposal for requirements in the 1991 Notice and in the Reopening Notice under § 830.110, Safety Analysis Report, § 830.112, Unreviewed Safety Question Requirements, and § 830.310, Technical Safety Requirements, and are updated versions of the underlying requirements in DOE Orders on nuclear safety. While safety basis requirements already exist in DOE Orders and are imposed through contracts, we consider the requirements to be so fundamental to nuclear safety for DOE hazard category 1, 2, and 3 nuclear facilities that it is essential that these requirements be clearly enforceable under the PAAA. To properly establish a safety basis for a hazard category 1, 2, or 3 nuclear facility, a contractor must:

- Define the scope of work to be performed,
- Identify and analyze the hazards associated with the work,
- Categorize the facility consistent with DOE STD–1027,
- Prepare a documented safety analysis for the facility, and
- Establish the hazard controls upon which the contractor will rely to ensure adequate protection of workers, the public, and the environment.

D. Can a Facility Be Divided Into Compartments or ''Segmented'' for the Purpose of Facility Hazard Categorization?

The purpose of performing a hazard categorization and estimating the radiological and nonradiological hazardous material inventory is to understand the possible hazards and their potential interactions and to determine if they could cause harm to individuals or the environment. If there are facility features that prevent hazards from one process, operation, or activity from interacting with those of another, contractors may be able to address the

hazards separately. Therefore, in certain limited circumstances, contractors may be able to segment facilities (divide one facility into two or more facilities), provided the radiological or nonradiological hazardous materials in one segment cannot interact with radiological or nonradiological hazardous materials in other segments. If a contractor chooses to segment a facility, the burden of proof of the independence of the segments and the adequacy of the treatment of the hazards lies with the contractor.

The safety basis for each segmented facility must demonstrate that the hazards cannot interact with radiological or nonradiological hazardous materials in other segments of the physical structure. For example, if a fire causes the release of hazardous materials in one segment, it must be demonstrated that the materials are confined in that segment by the hazard controls or physical barriers that are not degraded by the fire. If the hazardous materials could be transported to other segments by common confinement systems or the lack of other physical barriers, the facility cannot be segmented for purposes of this rule.

Additional discussion on segmenting nuclear facilities can be found in DOE–STD–1027.

E. Is the Contractor Required To Incorporate Changes Directed by DOE Into the Safety Basis?

Yes. As stated in 830.202(c)(1), the contractor must incorporate in the safety basis for the facility, any changes, conditions, or hazard controls directed by DOE.

F. How Often Is the Contractor Required To Update the Documented Safety Analysis?

Each year, the contractor responsible for a DOE hazard category 1, 2, or 3 nuclear facility must update the documented safety analysis to reflect all changes to the nuclear facility, the hazards, and the work. The updated documented safety analysis must be submitted to DOE. If there were no changes to the nuclear facility or its activities or operations that affected the documented safety analysis over the previous year, the contractor may instead send DOE a letter confirming that there were no changes.

Section 830.203, Unreviewed Safety Question Process

G. When Must a Contractor Use a USQ Process To Evaluate if a Situation Involves a USQ?

Some changes to the nuclear facility can impact the safety basis. However, it would be overly burdensome for a contractor to obtain DOE approval before making any changes to DOE hazard category 1, 2, or 3 nuclear facilities. Through the USQ process, contractors responsible for DOE hazard category 1, 2, or 3 nuclear facilities may make physical and procedural changes to a nuclear facility without DOE approval, provided those changes do not implicitly or explicitly affect the safety basis of the facility. The USQ process is also used to assess newly discovered situations that might involve a potential inadequacy of the safety basis.

The USQ process has two-steps. The contractor must first determine whether a situation involves a USQ. If it does, the contractor must inform DOE and then perform an evaluation to determine whether the existing safety basis is adequate to bound the situation.

A contractor responsible for a hazard category 1, 2, or 3 DOE nuclear facility must use the USQ process for any of the following situations to determine if a USQ is involved:

- A temporary or permanent change in the facility as described in the existing documented safety analysis,
- A temporary or permanent change in the procedures as described in the existing documented safety analysis,
- A test or experiment not described in the existing documented safety analysis, or
- A potential inadequacy of the documented safety analysis is discovered for which the safety analysis may not be bounding or may be otherwise inadequate. In this case, the contractor must (1) take action to place the facility in a safe condition, (2) notify DOE of the situation, (3) perform a USQ evaluation, and (4) submit the USQ evaluation to DOE and obtain its approval prior to removing any operational restrictions previously imposed.

H. What Is an Unreviewed Safety Question (USQ)?

A situation involves a USQ if

- the probability of the occurrence or the consequences of an accident or the malfunction of equipment important to safety previously evaluated in the facility documented safety analysis could be increased,
- the possibility of an accident or malfunction of a different type than any evaluated previously in the facility documented safety analysis could be created, or
- a margin of safety could be reduced.

A situation also involves a USQ if there is a potential inadequacy of the safety analysis.

I. Is the Contractor Required To Obtain DOE Approval of the USQ Process?

Yes. The contractor responsible for a hazard category 1, 2, or 3 existing DOE nuclear facility is required to submit the USQ process to DOE for approval by April 10, 2001. Pending DOE approval of the USQ process, the contractor must continue to use its existing DOE-approved USQ process. If the existing process already meets the requirements of this section, the contractor must notify DOE by April 10, 2001 and request DOE to issue an approval of the existing process. The USQ process for a hazard category 1, 2, or 3 new DOE nuclear facility must be submitted for DOE approval in the safety evaluation report issued pursuant to § 830.207(d) of the rule. In either case, we will notify the contractor if any changes to the process are required.

J. What Is a USQ Summary and How Often Must a Contractor Submit It to DOE?

Each year, when the contractor submits its updated documented safety analysis to DOE, the contractor must also submit a report which summarizes all situations for which the contractor performed a USQ determination since the prior submission. The report must summarize the results of those determinations.

Section 830.204 Documented Safety Analysis

K. Does the Rule Permit the Contractor To Use a Method To Develop the Documented Safety Analysis That Is Appropriate for the Hazards and the Work Involved?

Yes, this rule allows contractors to develop the documented safety analysis by a method that DOE has approved for the particular facility or activity and is appropriately graded for the work and the hazards. Contractors may either propose a method to prepare a documented safety analysis and obtain DOE approval, or use one of the safe harbor methods established for defined facilities and activities in Table 2 of Appendix A to Subpart B of Part 830—General Statement of Safety Basis Policy.

L. What Are ''Safe Harbor'' Methods?

Safe harbor methods are methods which we have already determined to be acceptable for use. They are standards or methods developed by DOE or NRC, or defined in regulations promulgated by the Occupational, Safety and Health Administration (OSHA). The safe harbor methods are based on many years of

experience with the types of facilities to which they may be applied.

Contractors who use safe harbor methods in accordance with the provisions in Table 1 of Appendix A to Subpart B of Part 830—General Statement of Safety Basis Policy, do not need to obtain DOE approval prior to preparing a documented safety analysis. They do need to get DOE approval to use a method other than a safe harbor method. Whether or not a contractor uses a safe harbor method to develop its documented safety analysis, the final documented safety analysis must be submitted to DOE for approval in accordance with the schedule contained in the rule. Because the safe harbor methods are already approved by DOE, use of these methods will streamline the safety basis process by reducing the amount of review that DOE will need to do. Most DOE contractors are familiar with DOE standards and NRC regulatory guides relating to the development of documented safety analyses that are in the form of a safety analysis report or a BIO. Safe Harbor methods listed in Table 1 of Appendix A to Subpart B of Part 830 include:

- NRC Regulatory Guide 1.70, Standard Format and Content of Safety Analysis Reports for Nuclear Power Plants,
- DOE–STD–3009–94, Preparation Guide for U.S. Department of Energy Nonreactor Nuclear Facility Safety Analysis Reports,
- DOE–STD–3011–94, Guidance for Preparation of DOE 5480.22 (TSR) and DOE 5480.23 (SAR) Implementation Plans, and
- DOE–STD–3016–99, Hazards Analysis Reports for Nuclear Explosive Operations.

In addition, the safe harbor provisions in Appendix A to Subpart B of Part 830 also approve the use of selected provisions in OSHA regulation 29 CFR 1910.120 (or 29 CFR 1926.65 for construction activities) in conjunction with the methodology of DOE–STD–1120–98 (or its successor document) for the preparation of the documented safety analysis for DOE contractors conducting decommissioning or select environmental restoration activities of hazard category 1, 2, or 3 nuclear facilities.

The safe harbor methods listed are not the only methods that may be used. Contractors may propose other methods which they consider to be more effective. Provided they are approved by DOE, contractor-proposed methods may be used to prepare the facility safety basis. For example, the safe harbor method listed for reactors is NRC Regulatory Guide 1.70. That method was developed primarily for power reactors and may be too onerous for certain types of research reactors. In such cases contractors should propose an alternate method for DOE approval.

M. What Are the Content Requirements for a Documented Safety Analysis?

The documented safety analysis must:

- Describe the facility and the work to be performed;
- Identify the hazards associated with the facility;
- Evaluate all accident conditions that are presented by natural and/or manmade hazards;.
- Derive the hazard controls, including technical safety requirements, to eliminate, limit, or mitigate identified hazards, and define the process for maintaining the hazard controls current at all times and controlling their use;
- Define the characteristics of the safety management programs necessary to ensure the safe operation of the facility; and
- Define necessary criticality safety programs.

Requirements for a documented safety analysis are established in Section 830.204 and further guidance is available in the documented safety analysis implementation guide, DOE G 421.X, Implementation Guide for Use in Developing Documented Safety Analyses to Meet Subpart B of 10 CFR Part 830.

Section 830.205, Technical Safety Requirements

N. Why Is DOE Adding Requirements for Technical Safety Requirements?

The technical safety requirements are the hazard controls that define the conditions, safe boundaries, and the management or administrative controls necessary to ensure the safe operation of a nuclear facility. Technical safety requirements are part of the safety basis, as are other hazards controls necessary for adequate protection from all hazards, and are required to be approved by DOE. Contractors responsible for DOE hazard category 1, 2, and 3 nuclear facilities must ensure that the technical safety requirements are properly maintained and updated as operating conditions change or other situations arise that might not have been analyzed previously.

O. Are Contractors Required To Obtain DOE Approval of the Technical Safety Requirements?

Yes. Contractors are required to obtain DOE approval of their technical safety requirements. Section G of the Appendix A to Subpart B of Part 830 provides additional detail on DOE's expectations for technical safety requirements. These expectations are consistent with the criteria for technical safety requirements in DOE Order 5480.22 which are generally being implemented by contractors for DOE hazard category 1, 2, and 3 nuclear facilities.

P. Are Contractors for Environmental Restoration Facilities Who Follow the Provisions of 29 CFR 1910.120 or 29 CFR 1926.65 Required To Develop Technical Safety Requirements?

Rather than preparing technical safety requirements, a contractor for an environmental restoration activity that involves either (1) work not done within a permanent structure or (2) the decommissioning of a facility with only low-level residual fixed radioactivity may follow the provisions of 29 CFR 1910.120 or 1926.65 to develop its documented safety analysis and its appropriate hazard controls.

Q. Are Site Personnel Permitted To Take Actions That Do Not Meet the Technical Safety Requirements?

Site personnel may take emergency actions that depart from a technical safety requirement in rare circumstances when: (a) no actions consistent with the technical safety requirement are immediately apparent and (b) the departure from the technical safety requirements is needed to protect workers, the public, or the environment from imminent and significant harm. Such emergency actions must be approved by a certified operator for a reactor or by a person in authority as designated in the technical safety requirements for nonreactor nuclear facilities. Contractors should report any emergency actions that depart from the technical safety requirements to DOE as soon as practicable in accordance with an appropriate, existing mechanism as incorporated into contracts, such as the Occurrence Reporting and Processing System.

Section 830.206, Preliminary Documented Safety Analysis

R. Who Must Prepare a Preliminary Documented Safety Analysis?

To ensure early agreement between DOE and its contractors regarding what safety design and systems are needed in new nuclear facilities, a contractor responsible for a new DOE nuclear facility that is hazard category 1, 2, or 3 must submit a preliminary documented safety analysis to DOE and obtain DOE approval prior to procuring materials or components, or beginning

construction. In addition, a contractor responsible for a major modification to a hazard category 1, 2, or 3 DOE nuclear facility must submit a preliminary documented safety analysis to DOE for approval.

The rule does not preclude contractors from using subcontractors to develop all or part of the preliminary documented safety analysis. Likewise, in cases where the contractor responsible for the design of, or modification to, a nuclear facility is not the contractor responsible for operation of the facility, the design contractor should generally prepare the preliminary documented safety analysis. Regardless of which contractor prepares the analysis, however, the contractor responsible for the nuclear activity is ultimately responsible for the analysis and must submit it to DOE for review and approval.

Section 830.207, DOE Approval of Safety Basis

S. By What Date Must a Contractor Submit a Safety Basis That Meets the Subpart B Requirements of This Rule for DOE Approval?

Contractors for hazard category 1, 2, and 3 existing DOE nuclear facilities must submit for DOE approval a safety bases that meets the requirements of Subpart B of this rule by April 10, 2003.

T. Pending DOE Approval of a Safety Basis That Meets This Rule, What Should a Contractor Do To Continue Operations and Work at a Hazard Category 1, 2, or 3 Existing Nuclear Facility?

Pending DOE approval of a safety basis that meets this rule, the contractor responsible for a hazard category 1, 2, or 3 existing DOE nuclear facility must continue to perform work in accordance with the safety basis for the facility in effect on October 10, 2000. The contractor must also maintain the safety basis consistent with the requirements of this rule pending DOE approval of the new safety basis.

U. What Should a Contractor Do if Its Current DOE-Approved Safety Basis Does Not Reflect Current Operations or Working Conditions?

If the current safety basis does not reflect current operations, the contractor should immediately inform DOE and request approval of any changes to the safety basis that are needed in the interim period while the safety basis is being upgraded to meet the safety basis requirements of this rule. It is essential that contractors establish technical standards, administrative controls, hazard controls, and other work processes that reflect current operations and meet those work processes in accordance with the requirements of Subpart A. The implementation guides that support this rule provide further information on how contractors should establish interim and upgraded safety bases.

V. What Should a Contractor Do if It Already Has a DOE-Approved Safety Basis That Meets the Requirements of the Rule?

If the current, DOE-approved safety basis already meets the requirements of this Subpart and is consistent with current hazards and work at the nuclear facility, the contractor must: (1) Notify DOE by April 9, 2001, (2) document the adequacy of the existing safety basis, and (3) request DOE to issue a safety evaluation report that approves the existing safety basis. This is to ensure that both the contractor and DOE have verified the current safety basis against the requirements of this rule. If DOE does not issue a safety evaluation report by October 10, 2001, the contractor should assume that it has not adequately demonstrated or documented its safety basis against the requirements of this Subpart. In that case, the contractor should work with DOE to correct the deficiencies and resubmit the safety basis. In the interim, the contractor should continue to meet the existing safety basis in accordance with paragraph 830.207(b).

W. When Must a Contractor Have an Approved Safety Basis for a New DOE Hazard Category 1, 2, or 3 Nuclear Facility or a Major Modification to a DOE Hazard Category 1, 2, or 3 Nuclear Facility?

A contractor for a new nuclear facility or a major modification to a hazard category 1, 2, or 3 DOE nuclear facility must obtain DOE approval of the safety basis for the nuclear facility before beginning operation of the nuclear facility or implementing the major modification.

Safety Management Systems

X. May Contractors Use Safety Bases and Safety Management Programs Developed Consistent With Its Integrated Safety Management System To Meet the Rule?

Section 830.204 of the rule requires contractors to define the characteristics of the safety management programs for a nuclear facility that are necessary for safe operations. Many DOE contractors responsible for DOE hazard category 1, 2, or 3 nuclear facilities have already developed safety management programs to comply with their contract requirements for Safety Management Systems. There should be no conflict between the requirements of this rule and the requirements for Safety Management Systems. Contractors who have developed safety management programs to meet contract requirements should use these programs as appropriate to meet the requirements of this rule. Contractors may incorporate existing programs by reference into the documented safety analysis provided these programs are sufficient to provide adequate protection. To aid the review process, they should also include a copy of any documents that are incorporated by reference with the documented safety analysis when it is submitted to DOE for review and approval.

Appendix A to Subpart B of Part 830—General Statement of Safety Basis Policy

Y. Why Did DOE Include an Appendix to Subpart B of Part 830?

DOE included the Appendix A to Subpart B of Part 830—General Statement of Safety Basis Policy, to provide information regarding DOE's expectations and criteria for the safety basis requirements of Part 830. The appendix does not create any new requirements. The appendix and the guidance documents referenced therein are intended to be read and applied consistent with DOE Policy 450.2A, ''Identifying, Implementing and Complying with Environment, Safety and Health Requirements'' (May 15, 1996).

IV. Discussion of Other General Topics Pertinent to the Rules

A. What Does DOE Intend To Do With Other DOE Directives That Relate to Nuclear Safety Management Topics?

We intend to maintain the DOE Quality Assurance Order (DOE O 414.1, Quality Assurance) so it may be applied through contracts to non-nuclear facilities. Other directives related to nuclear safety such as DOE Orders 5480.23 (Nuclear Safety Analysis Reports), 5480.22 (Technical Safety Requirements), and 5480.21 (Unreviewed Safety Questions) are incorporated in most DOE contracts where nuclear activities are involved, and work has begun using these orders for requirements. Those contract requirements are not changed by the issuance of this rule.

We will retain DOE Orders 5480.23, 5480.22, and 5480.21 during the transition period for this rule (approximately the next two and a half

years) while updated safety bases are established. After this transition period, we will consider canceling DOE Orders 5480.23, 5480.22, and 5480.21 and relying on this rule and its implementing guides for safety basis requirements. DOE contractors may also work with DOE to delete these orders from contracts where appropriate. DOE orders for other nuclear safety management topics such as maintenance, training, conduct of operations, defect identification, and occurrence reporting, will be retained so that the applicable and appropriate requirements of the orders can continue to be referenced in contracts.

B. What if There Is a Conflict Between Contract Requirements and Technical or Schedule Requirements in This Rule?

As previously noted, we expect the requirements in DOE Orders 414.1, 5480.23, 5480.22, and 5480.21 and other directives related to nuclear safety that are incorporated in contracts to be compatible with this rule. To the extent there are any conflicts between this rule and contract terms and conditions, the provisions of this rule take precedence. If the rule imposes more stringent requirements than the contract, the contractor must either meet the requirements in the rule or obtain an exemption from the rule in accordance with criteria in Subpart E of 10 CFR Part 820.

A contract or implementing document under a contract may specify details concerning how contractors will comply with the rule. For example, a project execution plan or similar project management planning document may provide for different contractors to design, construct, and operate a facility. In this regard, DOE may require the design contractor to prepare the documented safety analysis, and may require acceptance of the document by the operating contractor.

Also, a contract or implementing document under a contract may impose additional requirements beyond those imposed by the rule. For example, on a project specific basis, DOE might require by contract that a contractor meet a higher level of quality assurance than reflected in the rule as well as an enhanced USQ process. If a contract imposes more stringent requirements than imposed by this rule, the contract requirements would apply unless the contract is modified. Moreover, the contractor would be expected to develop work processes that address these contract requirements, and to the extent that these work processes address nuclear safety activities, they are covered by the quality assurance provisions of 10 CFR 830.120.

C. What Should Contractors Do if They Have Completed Activities and Documents To Meet the Above DOE Orders?

We do not expect contractors to significantly modify documents or commitments already provided to meet similar commitments under contract. For example, existing documented safety analyses, technical safety requirements, and processes for USQs that meet the order requirements should meet the rule requirements. We do not expect contractors to reduce their commitments to protect health, safety, and the environment as a result of issuing this rule. If a contractor has previously submitted documents to meet contract requirements and they have been approved by DOE, the contractor should assess whether those documents meet the requirements of Part 830. If they do, the contractor should send a letter to DOE requesting that DOE extend its approval under the rule provisions. DOE will inform the contractor if they need to resubmit the documents for review.

If, on the other hand, a contractor determines that previously submitted documents do not meet the requirements of this rule, you should revise your documents to meet the rule requirements and submit them to DOE for approval. If the changes are minor, you should indicate what changes have been made to the documents since the DOE approval. This may help DOE to narrow its review.

D. How Are Nuclear Safety Requirements Imposed on Subcontractors and Suppliers?

Nuclear safety requirements can be imposed on subcontractors and suppliers through both regulations and contracts. The definition of contractor in 10 CFR 820.2 applies to Part 830. That definition includes ''any person under contract (or its subcontractors or suppliers) with the Department of Energy.'' This definition includes those contractors, subcontractors, and suppliers that provide items and services to DOE nuclear facilities and activities. Therefore, requirements in Part 830 that are stated to apply to ''contractors'' apply to prime contractors, and can, as appropriate, apply to subcontractors, and suppliers.

Certain requirements in Part 830 are stated to apply to ''a contractor responsible for a DOE nuclear facility.'' Such requirements only apply to prime contractors for DOE nuclear facilities. Regardless of the performer of the work, the prime contractor bears responsibility for subcontractor and supplier compliance with appropriate nuclear safety requirements. DEAR clause 48 CFR 5204–78(d) (the Laws Clause) requires contractors to flow down necessary provisions in contracts to subcontractors at any tier to which the contractor determines such requirements apply. In addition, DEAR 48 CFR 5204–2 (the Integrated Safety Management Systems clause) states that contractors must include a clause substantially the same as the Laws Clause in subcontracts involving complex or hazardous work on the site at a DOE-owned or leased facility. Other DOE and federal procurement regulations require contractors to have a DOE-approved contractor purchasing system for subcontracting.

Many of the requirements that flow down to subcontractors and suppliers are quality assurance requirements that pertain to procured items and services. See discussion above in Section II. I. Enforcement actions may be brought against any subcontractor or supplier who fails to comply with requirements that are imposed for the performance of work and provision of items and services that could affect the safety of a DOE nuclear facility.

E. How Does This Amendment to Part 830 Affect the Positions in Ruling 1995–1?

Ruling 1995–1 interpreted certain provisions of Parts 830 and 835. 61 FR 4209 (Feb. 5, 1996). This interim final rule amends Part 830 in a manner that changes the interpretations relating to Part 830 in four of the ten questions presented in Ruling 1995–1. None of the changes affect the interpretations as they apply to Part 835. Each of the questions from the Ruling 1995–1 that are affected by this interim final rule is listed below, as well as the impacts of this amendment. The positions from Ruling 1995–1 that are not discussed remain unchanged.

Question 2. Do Parts 830 and 835 apply to government employees in general and to the Department's government-owned, government-operated (GOGO) facilities specifically?

Impact of this amendment: This amendment changes Ruling 1995–1 as it applies to DOE employees and GOGOs. Ruling 1995–1 indicated that Part 830, unlike Part 835, did not apply to NRC or DOE personnel and to DOE GOGO facilities. As discussed previously, the scope of Part 830 is being amended to cover the conduct of DOE personnel. In addition, the general requirements of Part 830 are being amended to cover GOGO facilities by providing that if

there is no contractor for a nuclear facility, DOE must ensure implementation of the requirements of Part 830.

Question 5. To what extent are activities performed on a DOE site subject to Parts 830 and 835 if they are regulated by the NRC (including activities certified by the NRC under section 1701 of the Atomic Energy Act) or by a State under an agreement with the NRC?

Impact of this amendment: Ruling 1995–1 indicated that Part 830 does not apply to activities that are regulated through a license by the NRC or under an Agreement with the NRC. This exclusion deals with the situation where the NRC has issued a license. As discussed previously, Part 830 is being amended to also exclude activities conducted under the NWPA. This new exclusion covers activities conducted under the NWPA for the period prior to the issuance of a license by the NRC.

Question 6. To what extent are DOE activities performed off a DOE site subject to Parts 830 and 835, and what is the effect if these activities are performed on a site regulated by the NRC or by an Agreement State?

Impact of this amendment: Ruling 1995–1 stated that because Part 830 applies only ''at a DOE nuclear facility,'' Part 830 applies only at DOE operations and activities and would not apply, for example, at a supplier's facility. As discussed previously, the scope of Part 830 is being amended to remove this restrictive language. In particular, the amended scope governs the conduct of DOE contractors and other persons conducting activities (including providing items and services) that affect or may affect the safety of DOE nuclear facilities. The definition of a nuclear facility is amended to include activities conducted for or on behalf of DOE to include any related area, structure, facility, or activity. Furthermore, a nuclear facility is not limited to a facility located at a DOE site, and the nuclear facility may be wholly or partially owned or controlled by DOE.

Ruling 1995–1 indicated that Part 830 did not establish a threshold to exclude coverage of low hazard facilities. That continues to be the case. However, we have created a threshold for the new safety basis provisions in Subpart B of Part 830. Specifically, the safety basis provisions of Subpart B apply only to contractors responsible for hazard category 1, 2, and 3 nuclear facilities.

The discussion in Ruling 1995–1 relating to activities regulated by the NRC or an Agreement State is unchanged by this amendment.

Question 10. What is the purpose of the exclusion in Parts 830 and 835 for activities conducted under the Nuclear Explosives and Weapons Safety program relating to the prevention of accidental or unauthorized nuclear detonations, and what activities are intended to be included within the scope of this exclusion?

Impact of this amendment: Ruling 1995–1 indicated that the exclusion in Part 830 was drafted narrowly to cover only those activities necessary to prevent an accidental or unauthorized nuclear detonation. As discussed previously, the amended Part 830 does not contain this exclusion and, therefore this exclusion and the related interpretation no longer apply to Part 830. Further, the definition of nonreactor nuclear facility is amended to clarify that nuclear explosive hazards are included.

V. Summary and Discussion of Public Comments Received in Response to the December 9, 1991 and August 31, 1995 Notices of Proposed Rulemaking for Part 830

Many of the comments received on the 1991 Notice were responded to in the 1994 Notice, particularly those that related to general topics or quality assurance. Some of the outstanding issues from the 1991 Notice that were not addressed in the 1994 Notice, as well as additional issues raised in response to the Reopening Notice, are addressed below.

General Topics

A. Does the Rule Contain Detailed Criteria or Performance Objectives?

Many of the comments concerning the proposed Part 830 rule focused on whether the proposed rule should contain the detailed requirements in the existing DOE nuclear safety orders or performance objectives. Most of the comments stated that the rule should impose performance objectives, rather than specific requirements. In general, the commentors said that we should provide clear direction concerning what was expected as opposed to how it should be accomplished. However, there was some disagreement about the level of detail necessary to provide these clear expectations.

Today we are continuing requirements in Part 830 for quality assurance and adding requirements for a safety basis. However, in response to comments on the proposed rule, DOE decided not to include detailed requirements for training and certification, conduct of operation, maintenance management, defect identification, and occurrence reporting which were included as rulemaking topics in the 1991 Notice.

We believe the combination of the safety basis requirements and the quality assurance requirements, along with contract provisions, provides sufficient nuclear safety management requirements to address the hazards at DOE nuclear facilities. Furthermore, rather than prescribing the method to be used to develop safety basis documents, the requirements in Subpart B of this rule allow the contractor to propose the method it intends to use to develop safety basis documents based upon the work to be performed and the hazards. DOE is responsible for approving safety basis documents appropriate to the hazards and facility or activity addressed.

Finally, the enforcement of the safety basis requirements will be performance-oriented. That is, DOE will focus its enforcement efforts on whether the contractor operates a nuclear facility and performs work consistent with its safety basis as approved by DOE.

B. How Do the Requirements of Part 830 Apply to Hazard Category 1, 2, and 3 Nuclear Facilities and Below Hazard Category 3 Nuclear Facilities?

We received a number of comments to the question in the Reopening Notice regarding limiting the application of Part 830 requirements to either hazard category 1, 2, and 3 nuclear facilities or only hazard category 1 and 2 nuclear facilities. The comments on this issue came mostly from DOE contractors or subcontractors and were almost equally divided on whether hazard category 3 nuclear facilities should be subject to the requirements in Part 830. In addition, those commentors who recommended limiting the rule to hazard category 1, 2, or 3 nuclear facilities or to hazard category 1 and 2 nuclear facilities generally focused their comments on the impacts of the safety basis requirements (safety analysis reports, technical safety requirements, and USQ) on low hazard facilities, not the impacts of the quality assurance requirements.

We have decided to continue to apply the general requirements of §§ 830.1 through 830.7 and the quality assurance requirements in Subpart A to Part 830 to all activities affecting nuclear safety. The quality assurance requirements apply for all DOE nuclear facilities, including hazard category 1, 2, and 3 nuclear facilities and below hazard category 3 nuclear facilities, except as excluded in § 830.2 or exempted in accordance with Subpart E of Part 820. The rule requires the implementation of

the quality assurance requirements to be graded so they may be appropriately applied at all DOE nuclear facilities. Safety basis requirements only apply to hazard category 1, 2, and 3 nuclear facilities. Furthermore, DOE has approved a simplified methodology for establishing a documented safety analysis for a hazard category 3 nuclear facility in Table 2 of Appendix A in recognition of the lesser hazards.

A number of the comments received to the Reopening Notice recommended using DOE–STD–1027, Hazard Categorization and Accident Analysis Techniques for Compliance with DOE Order 5480.23, Nuclear Safety Analysis Reports, to define hazard categories for nuclear facilities. We are incorporating a requirement in § 830.202 for contractors to categorize their nuclear facilities consistent with DOE–STD–1027. DOE retains responsibility for approving the categorization as part of the safety basis.

C. How Do These Rules Apply to Transportation Activities?

The definition of nonreactor nuclear facility published in § 830.3 of the 1994 Notice excluded transportation of radioactive materials. This exclusion was added to avoid duplication of regulatory efforts because much of the transportation of radioactive materials occurs offsite where it is governed and regulated by DOT or NRC requirements. In the response to comments in the 1994 Notice, we indicated that we would add specific provisions to the rules to cover shipments wholly within DOE sites.

We have decided to amend the definition of nonreactor nuclear facility to delete the exclusion of transportation of radioactive materials and add new language to § 830.2 to exclude transportation of radioactive materials regulated by the DOT. This exclusion is more narrow than the previous exclusion in the definition of nonreactor nuclear facilities which excluded all transportation activities. We have determined that the applicable provisions of the Part 830 rules should apply to transportation activities which are not subject to DOT regulations.

The exclusion for activities regulated by DOT in Part 830 does not apply to either (1) non-transportation activities or (2) activities which do not need to meet the DOT regulations because they are specifically excluded from the DOT regulations. For example, 49 CFR 173.7(b) is a DOT regulation which excludes certain shipments of hazardous wastes which are made by or under the direction of DOE or the Department of Defense relating to national security. Excluding shipments of hazardous materials which are covered by Paragraph 49 CFR 173.7(b) from Part 830 would result in them being excluded from both the DOT regulations and the DOE regulations. Thus, the exclusion for Part 830 only applies to transportation activities that are subject to DOT requirements.

Some commentors expressed concern that, in cases when the transportation exclusion does not apply, application of the Part 830 rules to transportation of radioactive materials onsite would require safety analysis reports to be prepared specifically for the transportation activities. While contractors may consider treating these activities as separate from the nuclear facilities and consequently prepare separate documented safety analyses (such as safety analysis reports), as well as plans and programs, a more cost effective way to apply the nuclear requirements to transportation requirements, and the one supported by the Department, would be to integrate those activities into existing site or facility analyses and plans.

D. What Are the Requirements for Nuclear Explosive and Weapons Activities?

The Reopening Notice indicated that comments received from the 1991 Notice requested that we clarify the exclusion of nuclear explosive and weapons surety activities from nuclear safety requirements. Then-proposed Parts 830 and 835 contained identical exclusions for activities conducted under the Nuclear Explosives and Weapons Surety program relating to the prevention of accidental or unauthorized nuclear detonations. This exclusion was drafted narrowly to exempt from the nuclear safety rules only those activities necessary to prevent an accidental or unauthorized nuclear detonation that might be in conflict with the nuclear safety requirements. The reason for this exclusion was the paramount importance of preventing accidental or unauthorized nuclear detonations and ensuring that the requirements in Parts 830 and 835 did not conflict with activities necessary to prevent any such detonation.

We have crafted the requirements of this rule to permit contractors to use methods to develop their safety basis documents that are based upon the work to be performed and the relevant hazards. Consequently, DOE contractors are expected to use methods that do not conflict with activities necessary to protect individuals from the risk of detonation or explosion. Nuclear Explosive and Weapons Surety requirements are established in DOE Orders 452.1A and 452.2A, and they contain both nuclear and weapons safety requirements. Table 2 in Appendix A to Subpart B of this rule lists a safe harbor method for nuclear explosives facilities that has the same performance-based objectives as the Nuclear Explosive and Weapons Surety program requirements. As contractors now have the means to ensure there are no conflicts between weapons safety and nuclear safety, we determined that the weapons exclusion is no longer necessary and are deleting it from this rule.

The Integrated Weapons Activity Plan (IWAP) governs how and when the Nuclear Explosive and Weapons Surety requirements will be implemented. If a deviation or conflict exists between this rule and the IWAP, the IWAP can be used as a basis for requesting DOE to approve an exemption from rule requirements or schedules in accordance with Subpart E of Part 820.

E. Does the Rule Cover DOE Employees and DOE-Operated Facilities?

The Reopening Notice requested comments on the issue of extending applicability of Part 830 to cover DOE employees and DOE-operated facilities. Many commentors on this issue generally favored extending the nuclear safety requirements to DOE employees and DOE-operated nuclear facilities (referred to as GOGOs) where the facilities and hazards were comparable to DOE contractor operated nuclear facilities. The major concern expressed was with regard to application of PAAA civil penalties. DOE's authority to impose PAAA civil penalties only applies to indemnified contractors (including their subcontractors and suppliers), not DOE employees.

We believe that fundamental nuclear safety expectations should be applied to our GOGOs, as well as contractor-operated activities, and therefore the requirements of Part 830 should be applied to GOGOs. We are adding a new paragraph 830.4(d) to the rule to state that where there is no contractor for a DOE nuclear facility, DOE must ensure implementation and compliance with the requirements of this Part. This language is consistent with that in Part 835. It makes clear that where DOE, rather than a contractor, is responsible for the operation of a nuclear facility, DOE must ensure that the activities and operations of that facility meet the requirements of Part 830. However, as the authority to impose PAAA civil penalties for violations of nuclear safety requirements is limited to contractors,

we will not impose PAAA civil penalties on GOGOs.

F. Does the Rule Cover Nonradioactive Hazards?

The Reopening Notice proposed three options regarding the treatment of nonradioactive hazards in Part 830. Specifically, these were to address:

- Only radioactive hazards at a nuclear facility,
- Only radioactive hazards and those hazards which could cause or exacerbate an accident involving radioactivity or reduce the level of nuclear safety, or
- All substantial hazards at a nuclear facility.

The hazard categorization developed to meet § 830.202(b)(3) must be based on an inventory of all radioactive and nonradioactive hazardous materials within a nuclear facility. Further, we expect our contractors to address all hazards and the controls necessary to provide adequate protection to the public, workers, and the environment from these hazards in the documented safety analysis. Currently, a safety analysis report developed in accordance with DOE–STD–3009 would address these hazards. However, the AEA does not authorize DOE to issue civil penalties for violations of requirements not related to nuclear safety, and Price-Anderson enforcement is limited to violations of requirements related to nuclear safety. Therefore, we expect to limit our Price-Anderson enforcement actions to radiological hazards and those hazards which could cause or exacerbate an accident involving radioactivity or reduce the level of nuclear safety.

G. Does the Rule Apply to Non-Nuclear Facilities?

In the Reopening Notice, we requested comments on extending Part 830 to non-nuclear DOE facilities. A few commentors noted the advantage of seamless plans which would allow integrated and coordinated programs across sites. However, the majority of the comments, strongly recommended that Part 830 not be expanded to include non-nuclear facilities. We concluded that Part 830 should not be extended to apply to facilities or activities that do not affect safe operation of nuclear facilities. However, we have determined that Part 830 should be applied to activities which could affect the safe performance of a nuclear activity whether or not they are performed at a nuclear facility or on a DOE site.

Contractors are free to include non-nuclear activities together with nuclear activities within the scope of quality assurance and safety management programs so that they are integrated and coordinated on a site-wide basis. In addition, where used, SMS descriptions will address the proper coordination of nuclear and non-nuclear activities. However, as we stated in the General Statement of Enforcement Policy in Part 820 (Appendix A to Part 820) and above, we will only pursue enforcement actions through the procedures in Part 820 for those noncompliances which have nuclear safety significance.

H. What Is the Role of Implementation Plans in Part 830?

In the Reopening Notice we requested comments on options to clarify the role of implementation plans for the Part 830 requirements. Implementation plans were an option made available for a contractor who needed a transition period for bringing existing facilities and activities into compliance with the nuclear safety requirements. One commentor to the Reopening Notice stated that deleting the requirement for implementation plans would permit contractors to apply their resources directly to implementing the nuclear safety programs.

DOE agrees. The regulatory requirements for a QAP were issued over six years ago. We expect that actions identified in the quality assurance implementation plans prepared at that time are completed and the implementation plans are superseded by final DOE-approved QAPs.

We also believe that implementation plans are not needed for safety basis requirements. Safety basis requirements have been imposed on contractors responsible for nuclear facilities for many years, consequently those contractors should be able to submit safety bases that meet the requirements of Part 830 by April 10, 2003.

We do not expect new contractors to need to prepare implementation plans. The DOE procurement process allows for ample notification and time for a new contractor either to accept and implement the existing nuclear safety documents and programs or to prepare new ones for DOE approval prior to beginning work. Consequently, the requirement to develop implementation plans should no longer be necessary, and we are deleting it from the rule.

I. How Does DOE Plan To Assess Compliance With the Requirements of Part 830?

A number of comments were received on what constitutes compliance with nuclear safety rules. Based on those comments, we have concluded that more specificity as to what constitutes compliance would be useful. In order for a contractor to comply with a nuclear safety rule, it must fully implement the applicable requirements stated in the rule or have an approved exemption. Fully implementing the requirements includes:

- Ensuring that plans, programs, and procedures establish the criteria or define the actions to be taken to meet the requirements for a facility, activity, or operation, and
- Ensuring that actions, operations, and conditions at the site or facility are consistent with the plans, programs, and procedures.

Fully implementing the requirements also entails prime contractors ensuring that appropriate nuclear safety management requirements are imposed on and implemented by their subcontractors who perform work at nuclear facilities or suppliers who provide items and services that affect nuclear safety at these facilities.

J. Does DOE Plan To Issue Guidance Documents and Must Contractors Use Them?

We will issue guidance documents in the form of implementation guides and technical standards to help contractors determine what is needed to meet our expectations when implementing the requirements in Part 830. Guidance documents provide details about our expectations and suggest methods that may be used to meet them. DOE Policy 450.2A describes the role of guidance in implementing requirements. The primary implementation guides which define DOE's expectations for this rule are:

- DOE G 414.1–1: Implementation Guide for Use with Independent and Management Assessment Requirements of 10 CFR Part 830.120 and DOE 5700.6C Quality Assurance
- DOE G 414.1–2: Quality Assurance Management System Guide for Use with 10 CFR 830.120 and DOE O 414.1
- DOE G 421.X: Implementation Guide for Use in Developing Documented Safety Analyses to Meet Subpart B of 10 CFR Part 830
- DOE G 423.X: Implementation Guide for Use in Developing Technical Safety Requirements (TSRs)
- DOE G 424.X: Implementation Guide for Use in Addressing Unreviewed Safety Question (USQ) Requirements

Guides DOE G 414.1–1 and DOE G 414.1–2 are final guides already in use. Guides 421.X, 423.X, and 424.X are being made available for use and comment concurrent with the

publication of this rule. All of these guides, as well as DOE Policy 450.2A, are available through the DOE directives web page on http://www.explorer.doe.gov:1776/htmls/directives.html. Comments to Guides 421.X, 423.X, and 424.X may be submitted to Richard Black at the mailing address or email address provided at the beginning of this Notice.

K. To Whom in DOE Does a Contractor Submit Documents for DOE Approval?

The rule contains requirements for contractors to obtain approval from DOE, but does not specify who or what office in DOE will review and approve these documents. A number of commentors asked us to identify the specific DOE office or individual to whom documents are to be submitted or from whom approval is to be obtained. We chose not to specifically define individuals or offices for DOE responsibilities if they have the potential to be changed in future reorganizations. DOE M 411.1–1A, DOE Safety Management Functions, Responsibilities, and Authorities Manual (FRAM), explicitly defines current DOE responsibilities and authorities related to safety management that are established by DOE rules or Orders.

VI. Procedural Requirements

A. Review Under the National Environmental Policy Act

We have reviewed this amendment to 10 CFR Part 830 under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. § 4321 *et seq.*) and the Council on Environmental Quality regulations for implementing NEPA (40 CFR Part 1500).

Prior to publishing the notice of proposed rulemaking to add Part 830 to Title 10 of the CFR, and under the NEPA procedures then in existence, we concluded that the potential environmental impacts of Part 830 would be clearly insignificant. We decided that neither an environmental impact statement nor an environmental assessment was required in connection with the promulgation of this rule. Since that time, we have issued regulations establishing implementing procedures for complying with NEPA's requirements [See 10 CFR Part 1021]. We have further considered Part 830 under these regulations. The regulations include a list of typical classes of actions, referred to as categorical exclusions, that normally do not require the preparation of either an environmental impact statement or an environmental assessment. Part 830 is covered by several categorical exclusions including, among others, information gathering, data analysis, and document preparation (A9); training exercises and simulations (B1.2); routine maintenance activities and custodial services (B1.3); and site characterization and environmental monitoring (B3.1) [See 10 CFR Part 1021, Appendices A and B to Subpart D].

We have concluded that the amendment to 10 CFR Part 830 does not represent a major federal action having significant impact on the environment under NEPA (42 U.S.C. 4321 *et seq.* (1976)), the Council on Environmental Quality's regulations (40 CFR Parts 1500–08), and DOE's implementing regulations (10 CFR Part 1021). Therefore, the amendment to this rule does not require an environmental impact statement or an environmental assessment pursuant to NEPA.

B. Review Under Executive Order 12866

This rule is not a ''significant regulatory action'' within the scope of section 3(f) of the Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), and no formal assessment of costs and benefits was performed. DOE contracts already contain equivalent requirements for the safe management of nuclear activities to meet the Department's responsibilities under the Atomic Energy Act to protect workers, members of the public, and the environment. Thus, DOE concluded that this rulemaking would not result in any significant additional costs. The public comments submitted in response to the 1991 Notice of Proposed Rulemaking and the 1995 Reopening Notice, which contained similar requirements, provided no basis for DOE to change its view of the likely economic impact of a final rule. Further, we have determined that this rule will not (1) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (2) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights or obligations of recipients thereof; or (3) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order 12866. Accordingly, this rule was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs in the Office of Management and Budget.

C. Review Under Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires that a Federal agency prepare a regulatory flexibility analysis for any rule for which the agency is required to publish a general notice of proposed rulemaking. The requirement to prepare an analysis does not apply, however, if the agency certifies that a rule will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). The impact of the changes to Part 830 are primarily with respect to major contractors. Subcontractors and suppliers are expected to satisfy the provisions of Part 830 primarily through the programs and procedures established by prime contractors. Consequently, the impacts to small entities with respect to changes to Part 830 are expected to be minor. The economic impact on contractors of this filing requirement is negligible. On this basis, DOE certifies that the rule will not have a significant economic impact on a substantial number of small entities and, therefore, no analysis has been prepared.

D. Review Under the Paperwork Reduction Act of 1995

The information collection provisions of this rule are not substantially different from those contained in DOE contracts with DOE prime contractors covered by this rule and were previously approved by the Office of Management and Budget (OMB) and assigned OMB Control No. 1910–0300. Accordingly, no additional Office of Management and Budget clearance is required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and the procedures implementing that Act, 5 CFR 1320.1 *et seq.*

E. Review Under Executive Order 13132

Executive Order 13132 (64 FR 43255, August 10, 1999), requires agencies to develop an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have ''federalism implications.'' Policies that have federalism implications are defined in the Executive Order to include regulations that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. DOE has examined the changes to Part 830 and determined that they do not have a substantial direct effect on the States, on

the relationship between the national government and the States, or on the distribution of power and responsibilities among various levels of government. No further action is required by Executive Order 13132.

F. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531 *et seq.*, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in an agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This rule amends 10 CFR Part 830, and applies only to activities conducted by or for DOE. Any costs resulting from implementation of DOE's management, operation, and enforcement of its nuclear safety program are ultimately borne by the Federal government. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

G. Review Under Executive Order 12988, Civil Justice Reform

With respect to the review of existing regulations and the promulgation of new regulations, section 3 of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to eliminate drafting errors and ambiguity, write regulations to minimize litigation, provide a clear legal standard for affected conduct rather than a general standard, and promote simplification and burden reduction. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met. DOE has completed the required review and determined that, to the extent permitted by law, Part 830 meets the relevant standards of Executive Order 12988.

H. Review Under Small Business Regulatory Enforcement Fairness Act of 1996

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of the rule prior to its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(3).

List of Subjects in 10 CFR Part 830

DOE contracts, Environment Federal buildings and facilities, Government contracts, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Nuclear safety, Penalties, Public health, Reporting and recordkeeping requirements, and safety.

Issued in Washington, DC on September 28, 2000.

T. J. Glauthier,

Deputy Secretary of Energy, Department of Energy.

For the reasons set forth in the preamble, Part 830 of chapter III, title 10, of the Code of Federal Regulations is amended as set forth below.

PART 830—NUCLEAR SAFETY MANAGEMENT

1. The authority citation for part 830 is revised to read as follows:

Authority: 42 U.S.C. 2201; 42 U.S.C. 7101 *et seq.*; and 50 U.S.C. 2401 *et seq.*

2. Part 830—is revised to read as follows:

PART 830—NUCLEAR SAFETY MANAGEMENT

Sec.

§ 830.1 Scope.

This part governs the conduct of DOE contractors, DOE personnel, and other persons conducting activities (including providing items and services) that affect, or may affect, the safety of DOE nuclear facilities.

§ 830.2 Exclusions.

This Part does not apply to:

(a) Activities that are regulated through a license by the Nuclear Regulatory Commission (NRC) or a State under an Agreement with the NRC, including activities certified by the NRC under section 1701 of the Atomic Energy Act (Act);

(b) Activities conducted under the authority of the Director, Naval Nuclear Propulsion, pursuant to Executive Order 12344, as set forth in Public Law 106–65;

(c) Transportation activities which are regulated by the Department of Transportation;

(d) Activities conducted under the Nuclear Waste Policy Act of 1982, as amended; and

(e) Activities related to the launch approval and actual launch of nuclear energy systems into space.

§ 830.3 Definitions.

(a) The following definitions apply to this part:

Administrative controls means the provisions relating to organization and management, procedures, recordkeeping, assessment, and reporting necessary to ensure safe operation of a facility.

Bases appendix means an appendix that describes the basis of the limits and other requirements in technical safety requirements.

Critical assembly means special nuclear devices designed and used to sustain nuclear reactions, which may be subject to frequent core and lattice configuration change and which frequently may be used as mockups of reactor configurations.

Criticality means the condition in which a nuclear fission chain reaction becomes self-sustaining.

Design features means the design features of a nuclear facility specified in the technical safety requirements that, if altered or modified, would have a significant effect on safe operation.

Document means recorded information that describes, specifies, reports, certifies, requires, or provides data or results.

Documented safety analysis means a documented analysis of the extent to which a nuclear facility can be operated safely with respect to workers, the public, and the environment, including a description of the conditions, safe boundaries, and hazard controls that provide the basis for ensuring safety.

Environmental restoration activities means the process(es) by which contaminated sites and facilities are identified and characterized and by which contamination is contained, treated, or removed and disposed.

Existing DOE nuclear facility means a DOE nuclear facility in operation before April 9, 2001.

Fissionable materials means a nuclide capable of sustaining a neutron-induced chain reaction (e.g., uranium-233,

uranium-235, plutonium-238, plutonium-239, plutonium-241, neptunium-237, americium-241, and curium-244).

Graded approach means the process of ensuring that the level of analysis, documentation, and actions used to comply with a requirement in this part are commensurate with

(1) The relative importance to safety, safeguards, and security;

(2) The magnitude of any hazard involved;

(3) The life cycle stage of a facility;

(4) The programmatic mission of a facility;

(5) The particular characteristics of a facility;

(6) The relative importance of radiological and nonradiological hazards; and

(7) Any other relevant factor.

Hazard means a source of danger (i.e., material, energy source, or operation) with the potential to cause illness, injury, or death to a person or damage to a facility or to the environment (without regard to the likelihood or credibility of accident scenarios or consequence mitigation).

Hazard controls means measures to eliminate, limit, or mitigate hazards to workers, the public, or the environment, including

(1) Physical, design, structural, and engineering features;

(2) Safety structures, systems, and components;

(3) Safety management programs;

(4) Technical safety requirements; and

(5) Other controls necessary to provide adequate protection from hazards.

Item is an all-inclusive term used in place of any of the following: appurtenance, assembly, component, equipment, material, module, part, product, structure, subassembly, subsystem, system, unit, or support systems.

Limiting conditions for operation means the limits that represent the lowest functional capability or performance level of safety structures, systems, and components required for safe operations.

Limiting control settings means the settings on safety systems that control process variables to prevent exceeding a safety limit.

Low-level residual fixed radioactivity means the remaining radioactivity following reasonable efforts to remove radioactive systems, components, and stored materials. The remaining radioactivity is composed of surface contamination that is fixed following chemical cleaning or some similar process; a component of surface contamination that can be picked up by smears; or activated materials within structures. The radioactivity can be characterized as low-level if the smearable radioactivity is less than the values defined for removable contamination by 10 CFR Part 835, Appendix D, Surface Contamination Values, and the hazard analysis results show that no credible accident scenario or work practices would release the remaining fixed radioactivity or activation components at levels that would prudently require the use of active safety systems, structures, or components to prevent or mitigate a release of radioactive materials.

Major modification means a modification to a DOE nuclear facility that is completed on or after April 9, 2001 that substantially changes the existing safety basis for the facility.

New DOE nuclear facility means a DOE nuclear facility that begins operation on or after April 9, 2001.

Nonreactor nuclear facility means those facilities, activities or operations that involve, or will involve, radioactive and/or fissionable materials in such form and quantity that a nuclear or a nuclear explosive hazard potentially exists to workers, the public, or the environment, but does not include accelerators and their operations and does not include activities involving only incidental use and generation of radioactive materials or radiation such as check and calibration sources, use of radioactive sources in research and experimental and analytical laboratory activities, electron microscopes, and X-ray machines.

Nuclear facility means a reactor or a nonreactor nuclear facility where an activity is conducted for or on behalf of DOE and includes any related area, structure, facility, or activity to the extent necessary to ensure proper implementation of the requirements established by this Part.

Operating limits means those limits required to ensure the safe operation of a nuclear facility, including limiting control settings and limiting conditions for operation.

Preliminary documented safety analysis means documentation prepared in connection with the design and construction of a new DOE nuclear facility or a major modification to a DOE nuclear facility that provides a reasonable basis for the preliminary conclusion that the nuclear facility can be operated safely through the consideration of factors such as

(1) The nuclear safety design criteria to be satisfied;

(2) A safety analysis that derives aspects of design that are necessary to satisfy the nuclear safety design criteria; and

(3) An initial listing of the safety management programs that must be developed to address operational safety considerations.

Process means a series of actions that achieves an end or result.

Quality means the condition achieved when an item, service, or process meets or exceeds the user's requirements and expectations.

Quality assurance means all those actions that provide confidence that quality is achieved.

Quality Assurance Program (QAP) means the overall program or management system established to assign responsibilities and authorities, define policies and requirements, and provide for the performance and assessment of work.

Reactor means any apparatus that is designed or used to sustain nuclear chain reactions in a controlled manner such as research, test, and power reactors, and critical and pulsed assemblies and any assembly that is designed to perform subcritical experiments that could potentially reach criticality; and, unless modified by words such as containment, vessel, or core, refers to the entire facility, including the housing, equipment and associated areas devoted to the operation and maintenance of one or more reactor cores.

Record means a completed document or other media that provides objective evidence of an item, service, or process.

Safety basis means the documented safety analysis and hazard controls that provide reasonable assurance that a DOE nuclear facility can be operated safely in a manner that adequately protects workers, the public, and the environment.

Safety class structures, systems, and components means the structures, systems, or components, including portions of process systems, whose preventive or mitigative function is necessary to limit radioactive hazardous material exposure to the public, as identified by the documented safety analysis.

Safety evaluation report means the report prepared by DOE to document

(1) The sufficiency of the documented safety analysis for a hazard category 1, 2, or 3 DOE nuclear facility;

(2) The extent to which a contractor has satisfied the requirements of Subpart B of this part; and

(3) The basis for approval by DOE of the safety basis for the facility, including any conditions for approval.

Safety limits means the limits on process variables associated with those

safety class physical barriers, generally passive, that are necessary for the intended facility function and that are required to guard against the uncontrolled release of radioactive materials.

Safety management program means a program designed to ensure a facility is operated in a manner that adequately protects workers, the public, and the environment by covering a topic such as: quality assurance; maintenance of safety systems; personnel training; conduct of operations; inadvertent criticality protection; emergency preparedness; fire protection; waste management; or radiological protection of workers, the public, and the environment.

Safety management system means an integrated safety management system established consistent with 48 CFR 970.5204–2.

Safety significant structures, systems, and components means the structures, systems, and components which are not designated as safety class structures, systems, and components, but whose preventive or mitigative function is a major contributor to defense in depth and/or worker safety as determined from safety analyses.

Safety structures, systems, and components means both safety class structures, systems, and components and safety significant structures, systems, and components.

Service means the performance of work, such as design, manufacturing, construction, fabrication, assembly, decontamination, environmental restoration, waste management, laboratory sample analyses, inspection, nondestructive examination/testing, environmental qualification, equipment qualification, repair, installation, or the like.

Surveillance requirements means requirements relating to test, calibration, or inspection to ensure that the necessary operability and quality of safety structures, systems, and components and their support systems required for safe operations are maintained, that facility operation is within safety limits, and that limiting control settings and limiting conditions for operation are met.

Technical safety requirements (TSRs) means the limits, controls, and related requirements necessary for the safe operation of a nuclear facility and, as appropriate for the work and the hazards identified in the documented safety analysis for the facility, includes safety limits, operating limits, surveillance requirements, administrative and management controls, use and application provisions, and design features, as well as a bases appendix.

Unreviewed Safety Question (USQ) means a situation where

(1) The probability of the occurrence or the consequences of an accident or the malfunction of equipment important to safety previously evaluated in the documented safety analysis could be increased;

(2) The possibility of an accident or malfunction of a different type than any evaluated previously in the documented safety analysis could be created;

(3) A margin of safety could be reduced; or

(4) The documented safety analysis may not be bounding or may be otherwise inadequate.

Unreviewed Safety Question process means the mechanism for keeping a safety basis current by reviewing potential unreviewed safety questions, reporting unreviewed safety questions to DOE, and obtaining approval from DOE prior to taking any action that involves an unreviewed safety question.

Use and application provisions means the basic instructions for applying technical safety requirements.

(b) Terms defined in the Act or in 10 CFR Part 820 and not defined in this section of the rule are to be used consistent with the meanings given in the Act or in 10 CFR Part 820.

§ 830.4 General requirements.

(a) No person may take or cause to be taken any action inconsistent with the requirements of this part.

(b) A contractor responsible for a nuclear facility must ensure implementation of, and compliance with, the requirements of this part.

(c) The requirements of this part must be implemented in a manner that provides reasonable assurance of adequate protection of workers, the public, and the environment from adverse consequences, taking into account the work to be performed and the associated hazards.

(d) If there is no contractor for a DOE nuclear facility, DOE must ensure implementation of, and compliance with, the requirements of this part.

§ 830.5 Enforcement.

The requirements in this part are DOE Nuclear Safety Requirements and are subject to enforcement by all appropriate means, including the imposition of civil and criminal penalties in accordance with the provisions of 10 CFR Part 820.

§ 830.6 Recordkeeping.

A contractor must maintain complete and accurate records as necessary to substantiate compliance with the requirements of this part.

§ 830.7 Graded approach.

Where appropriate, a contractor must use a graded approach to implement the requirements of this part, document the basis of the graded approach used, and submit that documentation to DOE.

Subpart A—Quality Assurance Requirements

§ 830.120 Scope.

This subpart establishes quality assurance requirements for contractors conducting activities, including providing items or services, that affect, or may affect, nuclear safety of DOE nuclear facilities.

§ 830.121 Quality Assurance Program (QAP).

(a) Contractors conducting activities, including providing items or services, that affect, or may affect, the nuclear safety of DOE nuclear facilities must conduct work in accordance with the Quality Assurance criteria in § 830.122.

(b) The contractor responsible for a DOE nuclear facility must:

(1) Submit a QAP to DOE for approval and regard the QAP as approved 90 days after submittal, unless it is approved or rejected by DOE at an earlier date.

(2) Modify the QAP as directed by DOE.

(3) Annually submit any changes to the DOE-approved QAP to DOE for approval. Justify in the submittal why the changes continue to satisfy the quality assurance requirements.

(4) Conduct work in accordance with the QAP.

(c) The QAP must:

(1) Describe how the quality assurance criteria of § 830.122 are satisfied.

(2) Integrate the quality assurance criteria with the Safety Management System, or describe how the quality assurance criteria apply to the Safety Management System.

(3) Use voluntary consensus standards in its development and implementation, where practicable and consistent with contractual and regulatory requirements, and identify the standards used.

(4) Describe how the contractor responsible for the nuclear facility ensures that subcontractors and suppliers satisfy the criteria of § 830.122.

§ 830.122 Quality Assurance Criteria.

The QAP must address the following management, performance, and assessment criteria:

(a) Criterion 1—Management/ Program.

(1) Establish an organizational structure, functional responsibilities, levels of authority, and interfaces for those managing, performing, and assessing the work.

(2) Establish management processes, including planning, scheduling, and providing resources for the work.

(b) Criterion 2—Management/Personnel Training and Qualification.

(1) Train and qualify personnel to be capable of performing their assigned work.

(2) Provide continuing training to personnel to maintain their job proficiency.

(c) Criterion 3—Management/Quality Improvement.

(1) Establish and implement processes to detect and prevent quality problems.

(2) Identify, control, and correct items, services, and processes that do not meet established requirements.

(3) Identify the causes of problems and work to prevent recurrence as a part of correcting the problem.

(4) Review item characteristics, process implementation, and other quality-related information to identify items, services, and processes needing improvement.

(d) Criterion 4—Management/Documents and Records.

(1) Prepare, review, approve, issue, use, and revise documents to prescribe processes, specify requirements, or establish design.

(2) Specify, prepare, review, approve, and maintain records.

(e) Criterion 5—Preformance/Work Processes.

(1) Perform work consistent with technical standards, administrative controls, and other hazard controls adopted to meet regulatory or contract requirements, using approved instructions, procedures, or other appropriate means.

(2) Identify and control items to ensure their proper use.

(3) Maintain items to prevent their damage, loss, or deterioration.

(4) Calibrate and maintain equipment used for process monitoring or data collection.

(f) Criterion 6—Performance/Design.

(1) Design items and processes using sound engineering/scientific principles and appropriate standards.

(2) Incorporate applicable requirements and design bases in design work and design changes.

(3) Identify and control design interfaces.

(4) Verify or validate the adequacy of design products using individuals or groups other than those who performed the work.

(5) Verify or validate work before approval and implementation of the design.

(g) Criterion 7—Performance/Procurement.

(1) Procure items and services that meet established requirements and perform as specified.

(2) Evaluate and select prospective suppliers on the basis of specified criteria.

(3) Establish and implement processes to ensure that approved suppliers continue to provide acceptable items and services.

(h) Criterion 8—Performance/Inspection and Acceptance Testing.

(1) Inspect and test specified items, services, and processes using established acceptance and performance criteria.

(2) Calibrate and maintain equipment used for inspections and tests.

(i) Criterion 9—Assessment/Management Assessment. Ensure managers assess their management processes and identify and correct problems that hinder the organization from achieving its objectives.

(j) Criterion 10—Assessment/Independent Assessment.

(1) Plan and conduct independent assessments to measure item and service quality, to measure the adequacy of work performance, and to promote improvement.

(2) Establish sufficient authority, and freedom from line management, for the group performing independent assessments.

(3) Ensure persons who perform independent assessments are technically qualified and knowledgeable in the areas to be assessed.

Subpart B—Safety Basis Requirements

§ 830.200 Scope.

This Subpart establishes safety basis requirements for hazard category 1, 2, and 3 DOE nuclear facilities.

§ 830.201 Performance of work.

A contractor must perform work in accordance with the safety basis for a hazard category 1, 2, or 3 DOE nuclear facility and, in particular, with the hazard controls that ensure adequate protection of workers, the public, and the environment.

§ 830.2021 Safety basis.

(a) The contractor responsible for a hazard category 1, 2, or 3 DOE nuclear facility must establish and maintain the safety basis for the facility.

(b) In establishing the safety basis for a hazard category 1, 2, or 3 DOE nuclear facility, the contractor responsible for the facility must:

(1) Define the scope of the work to be performed;

(2) Identify and analyze the hazards associated with the work;

(3) Categorize the facility consistent with DOE–STD–1027–92 (''Hazard Categorization and Accident Analysis Techniques for compliance with DOE Order 5480.23, Nuclear Safety Analysis Reports,'' Change Notice 1, September 1997);

(4) Prepare a documented safety analysis for the facility; and

(5) Establish the hazard controls upon which the contractor will rely to ensure adequate protection of workers, the public, and the environment.

(c) In maintaining the safety basis for a hazard category 1, 2, or 3 DOE nuclear facility, the contractor responsible for the facility must:

(1) Update the safety basis to keep it current and to reflect changes in the facility, the work and the hazards as they are analyzed in the documented safety analysis;

(2) Annually submit to DOE either the updated documented safety analysis for approval or a letter stating that there have been no changes in the documented safety analysis since the prior submission; and

(3) Incorporate in the safety basis any changes, conditions, or hazard controls directed by DOE.

§ 830.203 Unreviewed safety question process.

The contractor responsible for a hazard category 1, 2, or 3 DOE nuclear facility must:

(a) Submit for DOE approval a USQ process that meets the requirements of this section:

(1) For an existing DOE nuclear facility, by April 10, 2001. Pending DOE approval of the USQ process, the contractor must continue to use its existing, DOE-approved USQ process. If the existing process already meets the requirements of this section, the contractor must notify DOE by April 10, 2001 and request that DOE issue an approval of the existing process; and

(2) For a new DOE nuclear facility, on a schedule that allows DOE approval in a safety evaluation report issued pursuant to section 207(d) of this Part.

(b) Implement the DOE-approved USQ process in situations where there is a:

(1) Temporary or permanent change in the facility as described in the existing documented safety analysis;

(2) Temporary or permanent change in the procedures as described in the existing documented safety analysis;

(3) Test or experiment not described in the existing documented safety analysis; or

(4) Potential inadequacy of the documented safety analysis because the analysis potentially may not be bounding or may be otherwise inadequate;

(c) Obtain DOE approval prior to taking any action determined to involve a USQ;

(d) Annually submit to DOE a summary of the USQ determinations performed since the prior submission; and

(e) If the contractor discovers or is made aware of a potential inadequacy of the documented safety analysis:

(1) Take action, as appropriate, to place or maintain the facility in a safe condition until an evaluation of the safety of the situation is completed;

(2) Notify DOE of the situation;

(3) Perform a USQ determination and notify DOE promptly of the results; and

(4) Submit the evaluation of the safety of the situation to DOE prior to removing any operational restrictions initiated to meet paragraph (e)(1) of this section.

§ 830.204 Documented safety analysis.

(a) The contractor responsible for a hazard category 1, 2, or 3 DOE nuclear facility must obtain approval from DOE for the methodology used to prepare the documented safety analysis for the facility unless the contractor uses a methodology set forth in Table 2 of Appendix A to this Part.

(b) The documented safety analysis for a hazard category 1, 2, or 3 DOE nuclear facility must, as appropriate for the complexities and hazards associated with the facility:

(1) Describe the facility (including the design of safety structures, systems and components) and the work to be performed;

(2) Provide a systematic identification of both natural and man-made hazards associated with the facility;

(3) Evaluate normal, abnormal, and accident conditions, including consideration of natural and man-made external events, identification of energy sources or processes that might contribute to the generation or uncontrolled release of radioactive and other hazardous materials, and consideration of the need for analysis of accidents which may be beyond the design basis of the facility;

(4) Derive the hazard controls necessary to ensure adequate protection of workers, the public, and the environment, demonstrate the adequacy of these controls to eliminate, limit, or mitigate identified hazards, and define the process for maintaining the hazard controls current at all times and controlling their use;

(5) Define the characteristics of the safety management programs necessary to ensure the safe operation of the facility, including (where applicable) quality assurance, procedures, maintenance, personnel training, conduct of operations, emergency preparedness, fire protection, waste management, and radiation protection; and

(6) With respect to a nonreactor nuclear facility with fissionable material in a form and amount sufficient to pose a potential for criticality, define a criticality safety program that:

(i) Ensures that operations with fissionable material remain subcritical under all normal and credible abnormal conditions,

(ii) Identifies applicable nuclear criticality safety standards, and

(iii) Describes how the program meets applicable nuclear criticality safety standards.

§ 830.205 Technical safety requirements.

(a) A contractor responsible for a hazard category 1, 2, or 3 DOE nuclear facility must:

(1) Develop technical safety requirements that are derived from the documented safety analysis;

(2) Prior to use, obtain DOE approval of technical safety requirements and any change to technical safety requirements; and

(3) Notify DOE of any violation of a technical safety requirement.

(b) A contractor may take emergency actions that depart from an approved technical safety requirement when no actions consistent with the technical safety requirement are immediately apparent, and when these actions are needed to protect workers, the public or the environment from imminent and significant harm. Such actions must be approved by a certified operator for a reactor or by a person in authority as designated in the technical safety requirements for nonreactor nuclear facilities. The contractor must report the emergency actions to DOE as soon as practicable.

(c) A contractor for an environmental restoration activity may follow the provisions of 29 CFR 1910.120 or 1926.65 to develop the appropriate hazard controls [rather than the provisions for technical safety requirements in paragraph (a) of this section], provided the activity involves either:

(1) Work not done within a permanent structure, or

(2) The decommissioning of a facility with only low-level residual fixed radioactivity.

§ 830.206 Preliminary documented safety analysis.

The contractor responsible for a hazard category 1, 2, or 3 new DOE nuclear facility or a major modification to a hazard category 1, 2, or 3 DOE nuclear facility must:

(a) Prepare a preliminary documented safety analysis for the facility, and

(b) Obtain DOE approval of:

(1) The nuclear safety design criteria to be used in preparing the preliminary documented safety analysis unless the contractor uses the design criteria in DOE Order 420.1, Facility Safety; and

(2) The preliminary documented safety analysis before the contractor can procure materials or components or begin construction; provided that DOE may authorize the contractor to perform limited procurement and construction activities without approval of a preliminary documented safety analysis if DOE determines that the activities are not detrimental to public health and safety and are in the best interests of DOE.

§ 830.207 DOE approval of safety basis.

(a) By April 10, 2003, a contractor responsible for a hazard category 1, 2, or 3 existing DOE nuclear facility must submit for DOE approval a safety basis that meets the requirements of this Subpart.

(b) Pending issuance of a safety evaluation report in which DOE approves a safety basis for a hazard category 1, 2, or 3 existing DOE nuclear facility, the contractor responsible for the facility must continue to perform work in accordance with the safety basis for the facility in effect on October 10, 2000 and maintain the existing safety basis consistent with the requirements of this Subpart.

(c) If the safety basis for a hazard category 1, 2, or 3 existing DOE nuclear facility already meets the requirements of this Subpart and reflects the current work and hazards associated with the facility, the contractor responsible for the facility must, by April 9, 2001, notify DOE, document the adequacy of the existing safety basis and request DOE to issue a safety evaluation report that approves the existing safety basis. If DOE does not issue a safety evaluation report by October 10, 2001, the contractor must submit a safety basis pursuant to paragraph (a) of this section.

(d) With respect to a hazard category 1, 2, or 3 new DOE nuclear facility or a major modification to a hazard category 1, 2, or 3 DOE nuclear facility, a contractor may not begin operation of the facility or modification prior to the issuance of a safety evaluation report in

which DOE approves the safety basis for the facility or modification.

Appendix A to Subpart B to Part 830—General Statement of Safety Basis Policy

A. Introduction

This appendix describes DOE's expectations for the safety basis requirements of 10 CFR Part 830, acceptable methods for implementing these requirements, and criteria DOE will use to evaluate compliance with these requirements. This Appendix does not create any new requirements and should be used consistently with DOE Policy 450.2A, ''Identifying, Implementing and Complying with Environment, Safety and Health Requirements'' (May 15, 1996).

B. Purpose

1. The safety basis requirements of Part 830 require the contractor responsible for a DOE nuclear facility to analyze the facility, the work to be performed, and the associated hazards and to identify the conditions, safe boundaries, and hazard controls necessary to protect workers, the public and the environment from adverse consequences. These analyses and hazard controls constitute the safety basis upon which the contractor and DOE rely to conclude that the facility can be operated safely. Performing work consistent with the safety basis provides reasonable assurance of adequate protection of workers, the public, and the environment.

2. The safety basis requirements are intended to further the objective of making safety an integral part of how work is performed throughout the DOE complex. Developing a thorough understanding of a nuclear facility, the work to be performed, the associated hazards and the needed hazard controls is essential to integrating safety into management and work at all levels. Performing work in accordance with the safety basis for a nuclear facility is the realization of that objective.

C. Scope

1. A contractor must establish and maintain a safety basis for a hazard category 1, 2, or 3 DOE nuclear facility because these facilities have the potential for significant radiological consequences. DOE–STD–1027–92 (''Hazard Categorization and Accident Analysis Techniques for compliance with DOE Order 5480.23, Nuclear Safety Analysis Reports,'' Change Notice 1, September 1997) sets forth the methodology for categorizing a DOE nuclear facility. The hazard categorization must be based on an inventory of all radioactive materials within a nuclear facility.

2. Unlike the quality assurance requirements of Part 830 that apply to all DOE nuclear and radiological facilities, the safety basis requirements only apply to hazard category 1, 2, and 3 nuclear facilities and do not apply to nuclear facilities below hazard category 3.

TABLE 1

A DOE nuclear facility categorized as * * *	has the potential for * * *
hazard category 1	significant off-site consequences.
hazard category 2	significant on-site consequences beyond localized consequences.
hazard category 3	only local significant consequences.
below category 3	only consequences less than those that provide a basis for categorization as a hazard category 1, 2, or nuclear facility.

D. Integrated Safety Management

1. The safety basis requirements are consistent with integrated safety management. DOE expects that, if a contractor complies with the Department of Energy Acquisition Regulation (DEAR) clause on integration of environment, safety, and health into work planning and execution (48 CFR 970.5204–2, Integration of Environment, Safety and Health into Work Planning and Execution) and the DEAR clause on laws, regulations, and DOE directives (48 CFR 970.5204–78, Laws, Regulations and DOE Directives), the contractor will have established the foundation to meet the safety basis requirements.

2. The processes embedded in a safety management system should lead to a contractor establishing adequate safety bases and safety management programs that will meet the safety basis requirements of this Subpart. Consequently, the DOE expects if a contractor has adequately implemented integrated safety management, few additional requirements will stem from this Subpart and, in such cases, the existing safety basis prepared in accordance with integrated safety management provisions, including existing DOE safety requirements in contracts, should meet the requirements of this Subpart.

3. DOE does not expect there to be any conflict between contractual requirements and regulatory requirements. In fact, DOE expects that contract provisions will be used to provide more detail on implementation of safety basis requirements such as preparing a documented safety analysis, developing technical safety requirements, and implementing a USQ process.

E. Enforcement of Safety Basis Requirements

1. Enforcement of the safety basis requirements will be performance oriented. That is, DOE will focus its enforcement efforts on whether a contractor operates a nuclear facility consistent with the safety basis for the facility and, in particular, whether work is performed in accordance with the safety basis.

2. As part of the approval process, DOE will review the content and quality of the safety basis documentation. DOE intends to use the approval process to assess the adequacy of a safety basis developed by a contractor to ensure that workers, the public, and the environment are provided reasonable assurance of adequate protection from identified hazards. Once approved by DOE, the safety basis documentation will not be subject to regulatory enforcement actions unless DOE determines that the information which supports the documentation is not complete and accurate in all material respects, as required by 10 CFR 820.11. This is consistent with the DOE enforcement provisions and policy in 10 CFR Part 820.

3. DOE does not intend the adoption of the safety basis requirements to affect the existing quality assurance requirements or the existing obligation of contractors to comply with the quality assurance requirements. In particular, in conjunction with the adoption of the safety basis requirements, DOE revised the language

in 10 CFR 830.122(e)(1) to make clear that hazard controls are part of the work processes to which a contractor and other persons must adhere when performing work. This obligation to perform work consistent with hazard controls adopted to meet regulatory or contract requirements existed prior to the adoption of the safety basis requirements and is both consistent with and independent of the safety basis requirements.

4. A documented safety analysis must address all hazards (that is, both radiological and nonradiological hazards) and the controls necessary to provide adequate protection to the public, workers, and the environment from these hazards. Section 234A of the Atomic Energy Act, however, only authorizes DOE to issue civil penalties for violations of requirements related to nuclear safety. Therefore, DOE will impose civil penalties for violations of the safety basis requirements (including hazard controls) only if they are related to nuclear safety.

F. Documented Safety Analysis

1. A documented safety analysis must demonstrate the extent to which a nuclear facility can be operated safely with respect to workers, the public, and the environment.

2. DOE expects a contractor to use a graded approach to develop a documented safety analysis and describe how the graded approach was applied. The level of detail, analysis, and documentation will reflect the complexity and hazard associated with a particular facility. Thus, the documented safety analysis for a simple, low hazard facility may be relatively short and qualitative in nature, while the documented safety analysis for a complex, high hazard facility may be quite elaborate and more quantitative. DOE will work with its contractors to ensure a documented safety analysis is appropriate for the facility for which it is being developed.

3. Because DOE has ultimate responsibility for the safety of its facilities, DOE will review each documented safety analysis to determine whether the rigor and detail of the documented safety analysis are appropriate for the complexity and hazards expected at the nuclear facility. In particular, DOE will evaluate the documented safety analysis by considering the extent to which the documented safety analysis (1) satisfies the provisions of the methodology used to prepare the documented safety analysis and (2) adequately addresses the criteria set forth in 10 CFR 830.204(b). DOE will prepare a Safety Evaluation Report to document the results of its review of the documented safety analysis. A documented safety analysis must contain any conditions or changes required by DOE.

4. In most cases, the contract will provide the framework for specifying the methodology and schedule for developing a documented safety analysis. Table 2 sets forth acceptable methodologies for preparing a documented safety analysis.

TABLE 2

The contractor responsible for * * *	may prepare its documented safety analyses * * *
(1) a DOE reactor	using the method in U.S. Nuclear Regulatory Commission Regulatory Guide 1.70, Standard Format and Content of Safety Analysis Reports for Nuclear Power Plants or successor document.
(2) a DOE nonreactor nuclear facility	using the method in DOE–STD–3009–94, Preparation Guide for U.S. Department of Energy Nonreactor Nuclear Facility Safety Analysis Reports, July 1994 or successor document.
(3) a DOE nuclear facility with limited operational life.	using the method in either: (1) DOE–STD–3009–94 or successor document or (2) DOE–STD–3011–94, Guidance for Preparation of DOE 5480.22 (TSR) and DOE 5480.23 (SAR) Implementation Plans, November 1994 or successor document.
(4) the deactivation or the transition surveillance and maintenance of a DOE nuclear facility.	Using the method in either: (1) DOE–STD–3009–94 or successor document or (2) DOE–STD–3011–94 or successor document.
(5) the decommissioning of a DOE nuclear facility	(1) using the method in DOE–STD–1120–98, May 1998, Integration of Environment, Safety, and Health into Facility Disposition Activities or nuclear successor document; (2) using the provisions in 29 CFR 1910.120 (or 29 CFR 1926.65 for construction activities) for developing Safety and Health Programs, Work Plans, Health and Safety Plans, and Emergency Response Plans to address public safety, as well as worker safety; and (3) deriving hazard controls based on the Safety and Health Programs, the Work Plans, the Health and Safety Plans, and the Emergency Response Plans.
(6) a DOE environmental restoration activity that involves either work not done within a permanent structure or the decommissioning of a facility with only low-level residual fixed radioactivity.	(1) using the method in DOE–STD–1120–98 or successor document and (2) using the provisions in 29 CFR 1910.120 (or activity that 29 CFR 1926.65 for construction activities) for developing a Safety and Health Program and a site-specific Health and Safety Plan (including elements for Emergency Response Plans, conduct operations, training and qualifications, and maintenance management).
(7) a DOE nuclear explosive facility and the nuclear explosive opertions conducted therein.	developing its documented safety analysis in two pieces: (1) a Safety Analysis Report for the nuclear facility that considers the generic nuclear explosive operations and is prepared in accordance with DOE–STD–3009–94 or successor document and (2) a Hazard Analysis Report for the specific nuclear explosive operations prepared in accordance with DOE–STD–3016–99, Hazards Analysis Reports for Nuclear Explosive Operations, February 1999 or successor document.
(8) a DOE hazard category 3 nonreactor nuclear facility.	using the methods in Chapters 2, 3, 4, and 5 of DOE–STD–3009–94 or successor document to address in a simplified fashion: (1) the basic description of the facility/activity and its operations, including safety structures, systems, and components; (2) a qualitative hazards analysis; and (3) the hazard controls (consisting primarily of inventory limits and safety management programs) and their bases.

5. Table 2 refers to specific types of nuclear facilities. These references are not intended to constitute an exhaustive list of the specific types of nuclear facilities. Part 830 defines nuclear facility broadly to include all those facilities, activities, or operations that involve, or will involve, radioactive and/or fissionable materials in such form and quantity that a nuclear or a nuclear explosive hazard potentially exists to the employees or the general public, and to include any related area, structure, facility, or activity to the extent necessary to ensure proper implementation of the requirements established by Part 830. The only exceptions are those facilities specifically excluded such as accelerators. Table 3 defines the specific nuclear facilities referenced in Table 2 that are not defined in 10 CFR 830.3

TABLE 3

For purposes of Table 2, * * *	means * * *
(1) deactivation	the process of placing a facility in a stable and known condition including the removal of hazardous and radioactive materials.
(2) decontamination	the removal or reduction of residual radioactive and hazardous materials by mechanical, chemical, or other techniques to achieve a stated objective or end condition.
(3) decommissioning	those actions taking place after deactivation of a nuclear facility to retire it from service and includes surveillance and maintenance, decontamination, and/or dismantlement.
(4) environmental restoration activities	the process by which contaminated sites and facilities are identified and characterized and by which existing contamination is contained or removed and disposed.
(5) generic nuclear explosive operation	a characterization that considers the collective attributes (such as special facility system requirements, physical weapon characteristics, or quantities and chemical/physical forms of hazardous materials) for all projected nuclear explosive operations to be conducted at a facility.
(6) nuclear explosive facility	a nuclear facility at which nuclear operations and activities involving a nuclear explosive may be conducted.
(7) nuclear explosive operation	any activity involving a nuclear explosive, including activities in which main-charge, high-explosive parts and pits are collocated.
(8) nuclear facility with a limited operational life	a nuclear facility for which there is a short remaining operational period before ending the facility's mission and initiating deactivation and decommissioning and for which there are no intended additional missions other than cleanup.
(9) specific nuclear explosive operation	a specific nuclear explosive subjected to the stipulated steps of an individual operation, such as assembly or disassembly.
(10) transition surveillance and maintenance activities.	activities conducted when a facility is not operating or during deactivation, decontamination, and decommissioning operations when surveillance and maintenance are the predominant activities being conducted at the facility. These activities are necessary for satisfactory containment of hazardous materials and protection of workers, the public, and the environment. These activities include providing periodic inspections, maintenance of structures, systems, and components, and actions to prevent the alteration of hazardous materials to an unsafe state.

6. The contractor responsible for the design and construction of a new DOE nuclear facility or of a major modification to an existing DOE nuclear facility must prepare a preliminary documented safety analysis. A preliminary documented safety analysis can ensure that substantial costs and time are not wasted in constructing a nuclear facility that will not be acceptable to DOE. If a contractor is required to prepare a preliminary documented safety analysis, the contractor must obtain DOE approval of the preliminary documented safety analysis prior to procuring materials or components or beginning construction. DOE, however, may authorize the contractor to perform limited procurement and construction activities without approval of a preliminary documented safety analysis if DOE determines that the activities are not detrimental to public health and safety and are in the best interests of DOE. DOE Order 420.1, Facility Safety, sets forth acceptable nuclear safety design criteria for use in preparing a preliminary documented safety analysis. As a general matter, DOE does not expect preliminary documented safety analyses to be needed for activities that do not involve significant construction such as environmental restoration activities, decontamination and decommissioning activities, specific nuclear explosive operations, or transition surveillance and maintenance activities.

G. Hazard Controls

1. Hazard controls are measures to eliminate, limit, or mitigate hazards to workers, the public, or the environment. They include (1) physical, design, structural, and engineering features; (2) safety structures, systems, and components; (3) safety management programs; (4) technical safety requirements; and (5) other controls necessary to provide adequate protection from hazards.

2. The types and specific characteristics of the safety management programs necessary for a DOE nuclear facility will be dependent on the complexity and hazards associated with the nuclear facility and the work being performed. In most cases, however, a contractor should consider safety management programs covering topics such as quality assurance, procedures, maintenance, personnel training, conduct of operations, criticality safety, emergency preparedness, fire protection, waste management, and radiation protection. In general, DOE Orders set forth DOE's expectations concerning specific topics. For example, DOE Order 420.1 provides DOE's expectations with respect to fire protection and criticality safety.

3. Safety structures, systems, and components require formal definition of minimum acceptable performance in the documented safety analysis. This is accomplished by first defining a safety function, then describing the structure, systems, and components, placing functional requirements on those portions of the structures, systems, and components required for the safety function, and identifying performance criteria that will ensure functional

requirements are met. Technical safety requirements are developed to ensure the operability of the safety structures, systems, and components and define actions to be taken if a safety structure, system, or component is not operable.

4. Technical safety requirements establish limits, controls, and related requirements necessary for the safe operation of a nuclear facility. The exact form and contents of technical safety requirements will depend on the circumstances of a particular nuclear facility as defined in the documented safety analysis for the nuclear facility. As appropriate, technical safety requirements may have sections on (1) safety limits, (2) operating limits, (3) surveillance requirements, (4) administrative controls, (5) use and application, and (6) design features. It may also have an appendix on the bases for the limits and requirements. DOE Guide 423.X, Implementation Guide for Use in Developing Technical Safety Requirements (TSRs) provides a complete description of what technical safety requirements should contain and how they should be developed and maintained.

5. DOE will examine and approve the technical safety requirements as part of preparing the safety evaluation report and reviewing updates to the safety basis. As with all hazard controls, technical safety requirements must be kept current and reflect changes in the facility, the work and the hazards as they are analyzed in the documented safety analysis. In addition, DOE expects a contractor to maintain technical safety requirements, and other hazard controls as appropriate, as controlled documents with an authorized users list.

6. Table 4 sets forth DOE's expectations concerning acceptable technical safety requirements.

TABLE 4

As appropriate for a particular DOE nuclear facility, the section of the technical safety requirements on * * *	will provide information on * * *
(1) safety limits	the limits on process variables associated with those safety class physical barriers, generally passive, that are necessary for the intended facility function and that are required to guard against the uncontrolled release of radioactive materials. The safety limit section describes, as precisely as possible, the parameters being limited, states the limit in measurable units (pressure, temperature, flow, etc.), and indicates the applicability of the limit. The safety limit section also describes the actions to be taken in the event that the safety limit is exceeded. These actions should first place the facility in the safe, stable condition attainable, including total shutdown (except where such action might reduce the margin of safety) or should verify that the facility already is safe and stable and will remain so. The technical safety requirement should state that the contractor must obtain DOE authorization to restart the nuclear facility following a violation of a safety limit. The safety limit section also establishes the steps and time limits to correct the out-of-specification condition.
(2) operating limits	those limits which are required to ensure the safe operation of a nuclear facility. The operating limits section may include subsections on limiting control settings and limiting conditions for operation.
(3) limiting control settings	the settings on safety systems that control process variables to prevent exceeding a safety limit. The limited control settings section normally contains the settings for automatic alarms and for the automatic or nonautomatic initiation of protective actions related to those variables associated with the function of safety class structures, systems, or components if the safety analyses show that they are relied upon to mitigate or prevent an accident. The limited control settings section also identifies the protective actions to be taken at the specific settings chosen in order to correct a situation automatically or manually such that the related safety limit is not exceeded. Protective actions may include maintaining the variables within the requirements and repairing the automatic device promptly or shutting down the affected part of the process and, if required, the entire facility.
(4) limiting conditions for operations	the limits that represent the lowest functional capability or performance level of safety structures, systems, and components required to perform an activity safely. The limiting conditions for operation section describes, as precisely as possible, the lowest functional capability or performance level of equipment required for continued safe operation of the facility. The limiting conditions for operation section also states the action to be taken to address a condition not meeting the limiting conditions for operation. Normally this simply provides for the adverse condition being corrected in a certain time frame and for further action if this is impossible.
(5) surveillance requirements	requirements relating to test, calibration, or inspection to assure that the necessary operability and quality of safety structures, systems, and components is maintained, that facility operation is within safety limits, and that limiting control settings and limiting conditions for operation are met. If a required surveillance is not successfully completed, the contractor is expected to assume the systems or components involved are inoperable and take the actions defined by the technical safety requirement until the systems or components can be shown to be operable. If, however, a required surveillance is not performed within its required frequency, the contractor is allowed to perform the surveillance within 24 hours or the original frequency, whichever is smaller, and confirm operability.
(6) administrative controls	organization and management, procedures, recordkeeping, assessment, and reporting necessary to ensure safe operation of a facility consistent with the technical safety requirement. In general, the administrative controls section addresses (1) the requirements associated with administrative controls, (including those for reporting violations of the technical safety requirement); (2) the staffing requirements for facility positions important to safe conduct of the facility; and (3) the commitments to the safety management programs identified in the documented safety analysis as necessary components of the safety basis for the facility.

TABLE 4—Continued

As appropriate for a particular DOE nuclear facility, the section of the technical safety requirements on * * *	will provide information on * * *
(7) use and application provisions	the basic instructions for applying the safety restrictions contained in a technical safety requirement. The use and application section includes definitions of terms, operating modes, logical connectors, completion times, and frequency notations.
(8) design features	design features of the facility that, if altered or modified, would have a significant effect on safe operation.
(9) bases appendix	the reasons for the safety limits, operating limits, and associated surveillance requirements in the technical safety requirements. The statements for each limit or requirement shows how the numeric value, the condition, or the surveillance fulfills the purpose derived from the safety documentation. The primary purpose for describing the basis of each limit or requirement is to ensure that any future changes to the limit or requirement is done with full knowledge of the original intent or purpose of the limit or requirement.

H. Unreviewed Safety Questions

1. The USQ process is an important tool to evaluate whether changes affect the safety basis. A contractor must use the USQ process to ensure that the safety basis for a DOE nuclear facility is not undermined by changes in the facility, the work performed, the associated hazards, or other factors that support the adequacy of the safety basis.

2. The USQ process permits a contractor to make physical and procedural changes to a nuclear facility and to conduct tests and experiments without prior approval, provided these changes do not cause a USQ. The USQ process provides a contractor with the flexibility needed to conduct day-to-day operations by requiring only those changes and tests with a potential to impact the safety basis (and therefore the safety of the nuclear facility) be approved by DOE. This allows DOE to focus its review on those changes significant to safety. The USQ process helps keeps the safety basis current by ensuring appropriate review of and response to situations that might adversely affect the safety basis.

3. DOE Guide 424.X, Implementation Guide for Addressing Unreviewed Safety Question (USQ) Requirements provides DOE's expectations for a USQ process. The contractor must obtain DOE approval of any USQ process.

I. Functions and Responsibilities

1. The DOE Management Official for a DOE nuclear facility (that is, the Assistant Secretary, the Assistant Administrator, or the Office Director who is primarily responsible for the management of the facility) has primary responsibility within DOE for ensuring that the safety basis for the facility is adequate and complies with the safety basis requirements of Part 830. The DOE Management Official is responsible for ensuring the timely and proper (1) review of all safety basis documents submitted to DOE and (2) preparation of a safety evaluation report concerning the safety basis for a facility.

2. DOE will maintain a public list on the internet that provides the status of the safety basis for each hazard category 1, 2, or 3 DOE nuclear facility and, to the extent practicable, provides information on how to obtain a copy of the safety basis and related documents for a facility.

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Tuesday,
October 10, 2000

Part IV

Department of Housing and Urban Development

24 CFR Part 203
Single Family Mortgage Insurance; Electronic Underwriting; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 203

[Docket No. FR–4311–F–02]

RIN 2502–AH15

Single Family Mortgage Insurance; Electronic Underwriting

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: As part of Direct Endorsement processing of a single family mortgage for FHA insurance, FHA previously required a Direct Endorsement underwriter to review personally the appraisal report and credit application, including the analysis performed on the worksheets. HUD issued an interim rule in May 1998 to allow a Direct Endorsement lender to substitute an acceptable risk classification from a FHA-approved automated underwriting system (AUS) in lieu of a personal review by a Direct Endorsement underwriter. The interim rule is adopted without change as a final rule.

EFFECTIVE DATE: November 9, 2000.

FOR FURTHER INFORMATION CONTACT: Vance Morris, Director, Office of Home Mortgage Insurance, Room 9266, Department Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (voice) (202) 708–2700. (This is not a toll-free number.) Hearing-impaired or speech-impaired individuals may access the voice telephone listed by calling the Federal Information Relay Service during working hours at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

Until changed by an interim rule published on May 29, 1998 (63 FR 29506), the Direct Endorsement (DE) procedure required a DE underwriter to personally review the appraisal report and credit application, including the analysis performed on the worksheets, when a single family mortgage was processed for FHA insurance under the Direct Endorsement procedure. The DE underwriter would certify that the underwriter had personally reviewed the credit application and appraisal report on all mortgages originated under the DE procedure. With the introduction of automated underwriting systems, the need for human underwriters to review certain aspects of the mortgage loan application has been substantially diminished. The regulatory change made by the interim rule allowed the lender to substitute an ''accept'' risk classification from a FHA-approved automated underwriting system in lieu of a personal review by a DE underwriter of the borrower's credit and capacity to repay the mortgage.

An automated underwriting system (AUS) performs an analysis of the loan application and provides risk grades or classifications as to the probability of mortgage default. The AUS either provides an acceptable risk classification (using such terms as ''accept'' or ''approve'') for the application based on information provided by the lender, or refers the application for further review by an individual underwriter. FHA controls the approval of all proprietary AUS's, determines the risk it is willing to accept (i.e., the score necessary to allow the loan to be considered an ''accept'' or an ''approve''), and enters into agreements with the AUS vendors outlining what elements of the mortgage application it is permitting the AUS to evaluate. FHA, at its discretion, may determine that the AUS may be used to review elements of the applicant's credit and capacity.

FHA will continue to require a personal review for those mortgage applications referred to an individual underwriter and to require that the lender certify that all other aspects of the mortgage transaction, including data integrity and eligibility rules, meet FHA requirements. Further, the mortgage lender remains responsible for those aspects of the credit and capacity not evaluated by the AUS, including eligibility requirements, as well as the integrity of the data used by the AUS to arrive at the ''accept'' risk classification.

Public Comments

HUD received one comment on the interim rule from a DE underwriter.

Comment. The commenter stated that it would be prudent for HUD to retain a requirement for a qualified person to sign off on each loan. The commenter expressed concern that a person would need to ensure the integrity of information, such as that taken from a Builder's Certification for a new home, or make judgment calls concerning a need for repairs to a home. The same commenter expressed concern over what he characterized as ''HUD's choice'' of Freddie Mac's Loan Prospector, objecting to Freddie Mac's charge for access to that AUS system.

HUD Response. Under the rule as revised on May 28, 1998, the lender must still sign and submit to HUD, before the mortgage is endorsed for insurance, the Form HUD–92900–A that holds the lender accountable for data integrity. The lender will have the option to decide who signs for the lender on the form certifying to the accuracy of the data used to determine the credit and capacity of the borrower, and may designate the DE underwriter for this purpose. The DE underwriter will still be responsible for review of the property, including repair requirements. An AUS will eliminate only the mandatory personal review of credit and capacity to repay, not the underlying collateral.

HUD did not approve Freddie Mac's licensing fees as part of the approval process, and does not expect to approve such fees for other systems. As other AUSs receive HUD approval, we expect that this will lead to market competition regarding fees for access to AUS processing for FHA-insured mortgages. Since the interim rule was published, HUD has approved Fannie Mae's Desktop Underwriter, as well as PMI Mortgage Services' pmiAURA, and is continuing to evaluate other systems.

HUD has concluded that no change to the interim rule is needed.

Findings and Certifications

Environmental Finding

A Finding of No Significant Impact with respect to the environment was made in accordance with HUD regulations at 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, at the time of the interim rule. The Finding of No Significant Impact remains available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, SW., Washington, DC 20410.

Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on State and local governments and is not required by statute, or preempts State law, unless the relevant requirements of section 6 of the Executive Order are met. This final rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

The Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Secretary by his approval of this rule hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities because it allows mortgage lenders greater flexibility and reduces underwriting time and expense.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) requires Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and on the private sector. This final rule does not impose, within the meaning of the UMRA, any Federal mandates on any State, local, or, tribal governments or on the private sector.

List of Subjects in Part 203

Hawaiian Natives, Home improvement, Indians—lands, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number for this program is 14.117.

Accordingly, the amendment to 24 CFR 203.255(b)(5) made by interim rule published on May 29, 1998 at 63 FR 29506 is adopted as a final rule without change.

Dated: October 2, 2000.

William C. Apgar,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 00–25869 Filed 10–6–00; 8:45 am]

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October 10, 2000

Part V

Department of Housing and Urban Development

24 CFR Part 291
Disposition of HUD-Acquired Single Family Property; Officer Next Door Sales Program; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 291

[Docket No. FR–4277–F–03]

RIN 2502–AH37

Disposition of HUD-Acquired Single Family Property; Officer Next Door Sales Program

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule on the Officer Next Door Sales program (OND Sales program) follows publication of an interim rule published on July 2, 1999. The interim rule, which solicited public comment, became effective August 2, 1999. The OND Sales program makes HUD-acquired single family homes available, with certain restrictions, to law enforcement officers for purchase at a discount from list prices. This final rule addresses the comments received on the interim rule and expands eligibility for the OND Sales program to include campus police officers employed by private colleges and universities. HUD believes the inclusion of these law enforcement officers will further the goal of the OND Sales program to promote safe neighborhoods.

DATES: *Effective Date:* November 9, 2000.

FOR FURTHER INFORMATION CONTACT: Joe McCloskey, Director, Single Family Asset Management Division, Office of Insured Single Family Housing, Room 9286, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–8000; telephone (202) 708–1672 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. The July 2, 1999 Interim Rule

On July 2, 1999 (64 FR 36210), HUD published for public comment interim regulations on the Officer Next Door Sales program (OND Sales program). HUD developed this program to further its goal of promoting safe neighborhoods. Beginning in 1997, until publication of the July 2, 1999 interim rule, the OND Sales program had been operating as a temporary program under HUD's authority to make single family properties available under 24 CFR part 291 (entitled ''Disposition of HUD-Acquired Single Family Property''). The July 2, 1999 interim rule announced HUD's intent to establish the OND Sales program as a permanent part of HUD's single family property disposition program and issued for effect regulations covering the terms and conditions of the program. The interim rule became effective August 2, 1999.

Under the OND Sales program, law enforcement officers may purchase HUD-acquired single family homes, with certain restrictions, at a discount (currently 50%) from list prices. The home must be located in a HUD-designated revitalization zone, and the law enforcement officer must agree to own and live in the home as his or her sole residence for a set period of time (currently 3 years). The law enforcement officer must also agree to execute a second mortgage and note on the home. The amount of the second mortgage is the difference between the list price of the home and the discounted selling price, and this amount is reduced, according to a schedule established by HUD, periodically over the period of time in which the law enforcement officer is required to own and live in the home. At the end of this period of time, the amount of the second mortgage is zero. So long as he or she fulfills the obligations under the program, the law enforcement officer is not required to make any monthly payments, nor does any interest accrue on the second mortgage.

Governmental entities and private nonprofit organizations may also purchase homes through the OND Sales program, if they intend to resell these homes directly to law enforcement officers under the terms and conditions of the OND Sales program. A complete description of the OND Sales program is presented in the preamble to the July 2, 1999 interim rule.

II. This Final Rule

This final rule adopts the July 2, 1999 interim regulations, and takes into consideration the public comments received on the interim rule. The public comment period for the interim rule closed on August 31, 1999. HUD received 2 comments, both from nonprofit public interest housing and community development organizations. HUD appreciates the suggestions offered by the commenters and carefully considered these suggestions. For the reasons discussed in section III of this preamble, however, HUD has chosen not to implement their suggestions.

This final rule makes one change to the July 2, 1999 interim rule. Specifically, the final rule expands eligibility for the OND Sales program to include campus police officers employed by private colleges and universities. The July 2, 1999 interim rule defines ''law enforcement officers'' as persons who are: (1) employed full-time by a Federal, State, county, or municipal government; and (2) sworn to uphold, and make arrests for violations of, Federal, State, county, or municipal law. (See § 291.530 of the July 2, 1999 interim rule.) Under this definition, police officers employed by State or local colleges and universities are eligible to participate in the OND Sales program. Private campus police officers, however, are excluded under the eligibility requirements established by the interim rule.

Upon reconsideration, HUD believes that this limitation on eligibility, based solely on the governmental status of the police officer's employer, is too restrictive. Private campus police officers have the same qualifications and responsibilities as police officers who are employed by public colleges or universities. They are police academy graduates, and are sworn to uphold, and make arrests for violations of, Federal, State, county, or municipal law. The presence of these police officers would be as beneficial to communities as that of their public sector counterparts. However, because these police officers are employed by private entities and not government institutions, they would be denied participation in OND Sales program under the July 2, 1999 interim rule. HUD has, therefore, revised the July 2, 1999 interim rule to allow private campus police officers to participate in the program.

III. Discussion of the Public Comments Received on the July 2, 1999 Interim Rule

This section of the preamble presents a summary of the issues raised by the public commenters and HUD's responses to their comments. For the reasons discussed below, HUD has decided not to revise the interim rule in response to public comment.

Comment—Current disposition procedure negatively impacts community development efforts and may harm the Federal Housing Administration (FHA) insurance funds. Currently, under the OND Sales program, HUD offers both law enforcement officers and nonprofit organizations the opportunity to purchase eligible HUD properties at a discount. The current disposition procedure for these properties is as follows:

(1) Eligible properties are listed on a special nonprofit/OND Sales program list.

(2) Nonprofits and law enforcement officers have 5 days to indicate an interest in a property.

(3) A winner is selected from among those indicating an interest through a random computerized lottery.

(4) The winner has the right to either purchase or not purchase the property. If the winner chooses not to purchase the property, the property is then relisted on a public list.

The commenters wrote that this procedure is unfair to serious bidders and counterproductive for communities requiring significant revitalization because it encourages casual bidding. According to the commenters, casual bidding is encouraged because bid winners are chosen through a random computerized lottery, so law enforcement officers feel the need to play the odds and bid on multiple properties. Additionally, the system does not require a deposit so law enforcement officers need not be selective about which properties they submit bids on.

The commenters wrote that, in some communities, law enforcement officers have been expressing interest in properties, winning the right to purchase those properties, but then failing to purchase them. When this happens, nonprofit organizations lose the opportunity to purchase these properties from the private list because the properties are automatically relisted on the public list. While nonprofit organizations can bid off the public list, the competition is much greater.

The commenters also wrote that, while it may seem that the FHA insurance funds are better protected because properties sold off the public list are sold at a higher price, in many cases this benefit is only short-term. According to the commenters, properties sold from the public list are often purchased by private investors whose primary interest in the property is as an investment. The commenters wrote that these investors may only patch, paint, and either try to quickly resell the properties to unsophisticated purchasers or rent them. The commenters wrote that, as a consequence, these properties often show up on the HUD inventory list again and again. The commenters wrote that nonprofit organizations, on the other hand, are mission oriented and more apt to invest significant funds to substantially renovate these homes in the manner they truly need to stabilize and revitalize the community.

The commenters suggested two possible solutions to these perceived problems. First, the commenters suggested that the computer lottery should simply rank all nonprofit and law enforcement officers in order in which they are selected. The first person selected would be given the option to purchase the property. If this person declines, then the second person on the list would be given the option and so on. This system would not delay the process and could be completed within a reasonable time (such as 14-days) if strict deadlines are enforced.

The commenters also recommended that HUD structure the OND Sales program so that it promotes only serious participants. For example, the program could allow law enforcement officers to participate in only one lottery at a time. Alternatively, limits should be placed on the number of times a law enforcement officer may express interest in a property and then choose not to purchase that property.

HUD Response. HUD appreciates the recommendations submitted by the commenters. The comments, however, relate almost exclusively to the lottery procedure currently used by HUD to determine winning bids under the OND Sales program. The July 2, 1999 interim rule did not establish specific disposition procedures for the program. Rather, the interim rule focused on the eligibility requirements for participation in the OND Sales program, and the requirements applicable to eligible law enforcement officers who are selected to purchase a home through the program.

HUD's single family property disposition regulations at 24 CFR part 291 provide HUD with the necessary flexibility to use a variety of innovative, efficient, and cost-effective methods for making properties available for sale (see § 291.90). In developing the OND Sales program, HUD wished to retain this flexibility, and elected not to establish a specific sales method for the program. HUD currently uses a lottery system to make properties available to law enforcement officers under the OND Sales program. However, HUD may, in its discretion, either on a case-by-case basis or as a regular course of business, elect to use another disposition method for the program (for example, a competitive bid process).

The suggestions made by the commenters relate to a matter not covered by the OND Sales program regulations, and are, therefore, outside the scope of this rulemaking. Accordingly, HUD has not adopted the changes recommended by the commenters in this final rule. Again, HUD prefers not to establish precise property disposition procedures for the OND Sales program. HUD, however, will consider these comments in the development of any future revisions to the lottery system, or in the adoption of an alternative disposition method for OND Sales program.

IV. For More Information About the OND Sales Program

Law enforcement officers, governmental entities, private nonprofit organizations, and other interested persons can receive more information about the OND Sales program by calling (800) 217–6970 or by visiting HUD's Web site at http://www.hud.gov.

V. Justification for Final Rulemaking

In general, HUD publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking at 24 CFR part 10. Part 10, however, does provide for exceptions from that general rule where HUD finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when the prior public procedure is ''impracticable, unnecessary, or contrary to the public interest'' (24 CFR 10.1).

As discussed above, this final rule makes a single change to the July 2, 1999 interim rule. Specifically, the final rule amends the July 2, 1999 interim rule to permit private campus police officers to participate in the OND Sales program. HUD finds that good cause exists to publish this amendment for effect without first soliciting public comment, in that prior public procedure is contrary to the public interest. The reasons for HUD's determination are as follows.

As noted above, campus police officers employed by State and local colleges or universities are currently eligible to participate in the OND Sales program. Private campus police officers, however, are ineligible under the July 2, 1999 interim rule. Upon reconsideration, HUD believes that this limitation on eligibility, based solely on the governmental status of the police officer's employer, is too restrictive. Police officers employed by private colleges and universities have the same qualifications and responsibilities as their public sector counterparts.

Delaying the effectiveness of this amendment to solicit prior public comment would only prolong the denial of eligibility to private campus police officers, simply because they are employed by private institutions. In addition, a delay in the effectiveness of this amendment would deny to residents the benefits of having these police officers reside in their communities. By expanding eligibility, HUD anticipates that the number of properties on which bids are placed by law enforcement officers will increase,

therefore furthering the goal of the OND Sales program to promote safe neighborhoods.

VI. Findings and Certifications

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) requires Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and on the private sector. This final rule does not impose any Federal mandates on any State, local, or, tribal governments, or on the private sector, within the meaning of the UMRA.

Environmental Impact

A Finding of No Significant Impact (FONSI) with respect to the environment was made at the interim rule stage, in accordance with the HUD regulations at 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). That FONSI remains applicable to this final rule and is available for public inspection and copying during regular business hours (7:30 a.m. to 5:30 p.m.) at the Office of the Rules Docket Clerk, Room 10276, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this final rule and in so doing certifies that it would not have a significant economic impact on a substantial number of small entities.

This final rule promotes safe neighborhoods by enabling law enforcement officers to purchase HUD-acquired single family homes at a significant discount. The final rule places restrictions on the use of a home purchased through the Officer Next Door Sales program that affects the individual purchasing the home. The final rule, however, does not place restrictions on any small entities involved in any transactions related to the Officer Next Door Sales program.

Federalism Impact

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This final rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

List of Subjects in 24 CFR Part 291

Community facilities, Conflict of interests, Homeless, Lead poisoning, Low and moderate income housing, Mortgages, Reporting and recordkeeping requirements, Surplus government property.

For the reasons discussed in the preamble, HUD adopts the amendments made in the interim rule amending 24 CFR part 291, which was published at 64 FR 36210 on July 2, 1999, with the following change:

PART 291—DISPOSITION OF HUD-ACQUIRED SINGLE FAMILY PROPERTY

1. The authority citation for part 291 continues to read as follows:

Authority: 12 U.S.C. 1701 *et seq.;* 42 U.S.C. 1441, 1441a, 1551a, and 3535(d).

2. Revise § 291.530(a) to read as follows:

§ 291.530 Who qualifies as a law enforcement officer?

* * * * *

(a) Employed full-time by:

(1) A Federal, state, county or municipal government; or

(2) A public or private college or university; and

* * * * *

Dated: October 2, 2000.

William C. Apgar,

Assistant Secretary for Housing-Federal Housing Commissioner.

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Part VI

Department of Health and Human Services

National Institutes of Health

Office of Biotechnology Activities; Recombinant DNA Research: Action Under the Guidelines; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of Biotechnology Activities; Recombinant DNA Research: Action Under the Guidelines

AGENCY: National Institutes of Health (NIH), PHS, DHHS.

ACTION: Notice of Actions Under the NIH Guidelines for Research Involving Recombinant DNA Molecules (NIH Guidelines).

SUMMARY: This notice describes amendments to the NIH Guidelines regarding research participant enrollment in human gene transfer studies and the submission of study protocols for NIH Recombinant DNA Advisory Committee (RAC) review. NIH's goal in making these modifications to the NIH Guidelines is to ensure that no research participant is enrolled in a human gene transfer study until the RAC review process has been completed, IBC and IRB approvals have been obtained, and applicable regulatory authorization(s) have been obtained.

The NIH is modifying the requirements for protocol submission to the NIH Office of Biotechnology Activities (OBA) for RAC review so that clinical trial proposals: 1) may be submitted for RAC review prior to local Institutional Review Board (IRB) approval; and 2) must be submitted to the NIH OBA for RAC review and the RAC review process completed prior to local Institutional Biosafety Committee (IBC) approval.

In the case of clinical trial proposals that are reviewed publicly and lead to specific recommendations from the RAC with regard to the protocol, the NIH will send written RAC recommendations to the Principal Investigator and the IBC and the IRB within 10 working days of public RAC review and discussion. Once the local IBC is in receipt of the RAC recommendations, the IBC may proceed with its protocol approval process. Investigators may initiate research participant enrollment when they have obtained final IBC and IRB approvals and all applicable regulatory authorization(s).

No later than 20 working days after enrollment of the first research participant, the investigator must have provided to NIH OBA: (1) the final protocol, as approved by the local IRB and IBC and as authorized by the FDA along with the IND number; (2) the NIH grant number(s), if applicable; (3) a copy of the IRB and IBC approvals; (4) as applicable, a written response addressing each of the RAC recommendations resulting from public review and discussion of the protocol; and (5) the date of the initiation of the trial.

FOR FURTHER INFORMATION CONTACT: Background documentation and additional information can be obtained from the Office of Biotechnology Activities, National Institutes of Health, MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892–7010, Phone 301–496–9838, FAX 301–496–9839. The OBA web site is located at http://www.nih.gov/od/oba/.

Background Information

Since the inception of both basic and clinical recombinant DNA research, the NIH RAC has publicly reviewed and discussed the full range of scientific, medical, ethical, legal, and social issues attendant to this field of research. Prior to the action described in this notice, local IBC and IRB approval of human gene transfer protocols were prerequisites for submission of the protocol to the NIH OBA for RAC review.

The actions set forth here: (1) allow all gene transfer protocols that meet the requirements set forth in Appendix M of the NIH Guidelines (Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA Molecules into One or More Human Research Participants) to be submitted for RAC review prior to local IRB review and approval; (2) require all gene transfer protocols that meet the requirements set forth in Appendix M of the NIH Guidelines to be submitted for RAC review prior to local IBC approval; (3) require, for protocols selected for public discussion by the RAC, that the discussion occur prior to final IBC approval of those protocols; and (4) ensure that no research participant is enrolled on a clinical study until the RAC review process is completed, and IBC and IRB approvals and applicable regulatory authorizations are obtained. For the purposes of this action, research participant enrollment is defined as the process of obtaining consent from a potential research participant, or a designated legal guardian of the participant, to undergo any test or procedure associated with the gene transfer experiment.

With this change, research participants can be assured that, prior to their participation in a gene transfer clinical trial that is either novel and/or raises significant ethical or safety concerns, their local IRB and IBC, as well as the principal investigator will be apprised of the results of public RAC review and discussion.

Public RAC discussion of selected gene transfer protocols and issues of general relevance to the field enhances human subjects protection by informing research participants, investigators, and local and Federal oversight bodies about the current state of knowledge of risks and benefits, potential safety and ethical concerns, and clinical trial design issues associated with gene transfer research. Local institutional review bodies, which generally see only that subset of gene transfer trials conducted at their institution, benefit from the expertise, broad perspective, and the experience of the RAC.

In developing the actions set forth here, the NIH consulted extensively with the public, the RAC, and the Advisory Committee to the Director, NIH (ACD). A version of this proposed action was initially published in the **Federal Register** for public notice and comment on August 11, 1999 (64 FR 43884). The draft proposal and public comments were discussed by the RAC at the September 2–3, 1999, meeting. During this discussion, some RAC members noted that optimizing the effectiveness of the RAC review process was a high priority, but expressed concern that elimination of the requirement for approval of gene transfer protocols by IRBs and IBCs before submission of protocols to NIH might result in the submission of incomplete or inadequately developed clinical protocols. To address these concerns, the NIH proposed that protocols submitted to NIH OBA for RAC review must address all the elements set forth in Appendix M of the *NIH Guidelines.* Other RAC members expressed concern that RAC review prior to local institutional review might be perceived as diminishing the critical role of IRBs and IBCs in protecting human research participants and the community. To address this concern, NIH proposed that in evaluating gene transfer protocols, the IBC should take into consideration the issues raised and recommendations made during public RAC review and discussion, as well as the Principal Investigator's response to those recommendations. The RAC voted on September 3, 1999, to recommend implementation of this revised proposal.

This proposal was not implemented immediately due to events that occurred shortly thereafter. For the first time in the history of gene transfer research, a research participant's death was attributed directly to participation in a gene transfer study. This event raised concerns about the safety of gene transfer research. In response, the NIH

Director established in December, 1999, the ACD Working Group on NIH Oversight of Clinical Gene Transfer Research (the ACD Working Group) to review the role of NIH and the RAC in oversight of clinical gene transfer research. The ACD Working Group included scientists, clinicians, bioethicists, and representatives of the general public. The ACD Working Group was asked to develop recommendations on whether the current NIH framework for oversight and public discussion of clinical gene transfer research is appropriate, especially with regard to the role of the RAC and the *NIH Guidelines*; whether current NIH mechanisms are adequate for coordination of the oversight of clinical gene transfer research with the FDA, the Office for Human Research Protections, IRBs, and IBCs; whether additional NIH measures are needed to minimize risk associated with clinical gene transfer research; and the appropriate role of the NIH with regard to reporting, analysis, and public discussion of serious adverse events.

The ACD Working Group concurred that participants must not be enrolled in a gene transfer protocol until NIH OBA and the RAC have determined whether the protocol requires public RAC review and, in the case of a protocol selected for public review and discussion, until that review has occurred. If the RAC expresses concerns about the safety or design of a protocol, there must be a systematic and established mechanism that allows RAC to communicate those concerns to the investigators prior to enrollment of participants.

The ACD Working Group specifically recommended the following:

- Research participant safety would be optimally enhanced if participants are not enrolled in gene transfer protocols selected for public RAC review and discussion until that public review has occurred and the investigator has responded to the RAC recommendations.
- The timing of review of gene transfer protocols by RAC, the IRB, the IBC, and the FDA should be altered to ensure that RAC functions as an effective advisory committee to investigators, local IRBs and IBCs, NIH, and FDA.
- The requirement that the investigator obtain IBC and IRB approval prior to submission of a protocol to OBA/RAC should be eliminated. This change would allow investigators to receive RAC input at an earlier stage of protocol development.
- Final IBC approval should be withheld until RAC review is complete. In the case of protocols not selected for public RAC review and discussion, IBC approval can be granted as soon as the IBC is notified that the protocol has not been selected for further review. In the case of protocols selected for public RAC review and discussion, IBC approval must be withheld until after RAC discussion and the investigator has responded to the review, thereby preventing the initiation of a trial prior to public RAC review.

The RAC unanimously endorsed the ACD Working Group recommendations on June 29, 2000. On July 15, 2000, the ACD unanimously voted to accept the ACD Working Group recommendations regarding review of human gene transfer protocols by the NIH RAC. Through this notice of action, the NIH is amending the *NIH Guidelines* in light of the recommendations of the RAC and the ACD.

The actions described in this notice implement fundamental changes in the NIH process for protocol submission and review of gene transfer clinical research protocols. These changes affect multiple sections of the *NIH Guidelines*, as set forth below. In addition, Appendix M of the *NIH Guidelines* is significantly modified. Specifically, the text has been substantially changed and reorganized in order to convey the revised protocol review process in a clear and logical manner. For the convenience of the reader, those portions of Appendix M that contain amended language, as well as those containing reorganized text, are reprinted below. The revised *NIH Guidelines*, in their entirety, can be accessed at http://www4.od.nih.gov/oba/guidelines.html. (**Note:** In the text below, adverse event reporting requirements remain unchanged; however, a subsequent notice will describe proposed changes for reporting to NIH on serious adverse events that occur during clinical gene transfer research.)

Actions Amending the NIH Guidelines

Section I. Scope of the NIH Guidelines

Section I-A–1-a under Purpose is amended to read:

''Section I–A–1–a. For experiments involving the deliberate transfer of recombinant DNA, or DNA or RNA derived from recombinant DNA, into human research participants (human gene transfer), no research participant shall be enrolled (see definition of enrollment in Section I–E–7) until the RAC review process has been completed (see Appendix M–I–B, RAC Review Requirements); Institutional Biosafety Committee (IBC) approval (from the clinical trial site) has been obtained; Institutional Review Board approval has been obtained; and all applicable regulatory authorization(s) have been obtained.

''For a clinical trial site that is added after the RAC review process, no research participant shall be enrolled (see definition of enrollment in Section I-E–7) at the clinical trial site until the following documentation has been submitted to NIH OBA: (1) IBC approval (from the clinical trial site); (2) Institutional Review Board approval; (3) Institutional Review Board-approved informed consent document; and (4) curriculum vitae of the principal investigator(s) (no more than two pages in biographical sketch format); and (5) NIH grant number(s) if applicable.''

A new Section I–E–7 is added to read:

''Section I–E–7. ''Enrollment'' is the process of obtaining informed consent from a potential research participant, or a designated legal guardian of the participant, to undergo a test or procedure associated with the gene transfer experiment.''

Section III. Experiments Covered by the NIH Guidelines

Section III–C is amended to read:

''Section III–C. Experiments that Require Institutional Biosafety Committee and Institutional Review Board Approvals and RAC Review Before Research Participant Enrollment

''Section III–C–1. Experiments Involving the Deliberate Transfer of Recombinant DNA, or DNA or RNA Derived from Recombinant DNA, into One or More Human Research Participants

''For an experiment involving the deliberate transfer of recombinant DNA, or DNA or RNA derived from recombinant DNA, into human research participants (human gene transfer), no research participant shall be enrolled (see definition of enrollment in Section I–E–7) until the RAC review process has been completed (see Appendix M–I–B, *RAC Review Requirements*).

''In its evaluation of human gene transfer proposals, the RAC will consider whether a proposed human gene transfer experiment presents characteristics that warrant public RAC review and discussion (See Appendix M-I-B–2). The process of public RAC review and discussion is intended to foster the safe and ethical conduct of human gene transfer experiments. Public review and discussion of a human gene transfer experiment (and access to relevant information) also serves to inform the public about the technical aspects of the proposal, meaning and significance of the research, and any significant safety, social, and ethical implications of the research.''

''Public RAC review and discussion of a human gene transfer experiment may be: (1) initiated by the NIH Director; or (2) initiated by the NIH OBA Director following a recommendation to NIH OBA by: (a) three or more RAC members; or (b) a Federal agency other than NIH. After a human gene transfer experiment is reviewed by the RAC at a regularly scheduled meeting, NIH OBA will send a letter within 10 working days to the NIH Director, the Principal Investigator, the

sponsoring institution, and other DHHS components, as appropriate, summarizing the RAC recommendations.

''For a clinical trial site that is added after the RAC review process, no research participant shall be enrolled (see definition of enrollment in Section I–E–7) at the clinical trial site until the following documentation has been submitted to NIH OBA: (1) Institutional Biosafety Committee approval (from the clinical trial site); (2) Institutional Review Board approval; (3) Institutional Review Board-approved informed consent document; and (4) curriculum vitae of the principal investigator(s) (no more than two pages in biographical sketch format).

''In order to maintain public access to information regarding human gene transfer protocols (including protocols that are not publicly reviewed by the RAC), NIH OBA will maintain the documentation described in Appendices M–I through M–V. The information provided in response to Appendix M should not contain any confidential commercial information or trade secrets, enabling all aspects of RAC review to be open to the public.

''Note: For specific directives concerning the use of retroviral vectors for gene delivery, consult Appendix B–V–1, *Murine Retroviral Vectors.''*

Section IV. Roles and Responsibilities

Section IV is amended to read in part:

Section IV–B. Responsibilities of the Institution

Section IV–B–1. General Information. . .

Section IV–B–1–f. Ensure that . . . (ii) all aspects of Appendix M have been appropriately addressed by the Principal Investigator; and (iii) no research participant shall be enrolled (see definition of enrollment in Section I–E–7) in a human gene transfer experiment until the RAC review process has been completed (see Appendix M–I–B, RAC Review Requirements). . . .''

''Section IV-B–2. Institutional Biosafety Committee (IBC). . .

''Section IV–B–2–a. Membership and Procedures

Section IV–B–2–a–(1). . . . When the institution participates in or sponsors recombinant DNA research involving human research participants, the institution must ensure that: . . . (ii) all aspects of Appendix M have been appropriately addressed by the Principal Investigator; (iii) no research participant shall be enrolled (see definition of enrollment in Section I–E–7) in a human gene transfer experiment until the RAC review process has been completed (see Appendix M–I–B, RAC Review Requirements); and (iv) final IBC approval is granted only after the RAC review process has been completed (see Appendix M–I–B, RAC Review Requirements). Institutional Biosafety Committee approval must be obtained from the institution at which recombinant DNA material will be administered to human research participants (rather than the site involved in manufacturing gene transfer products).''

Section IV–B–2–b. Functions. . .

On behalf of the Institution, the Institutional Biosafety Committee is responsible for:

''Section IV–B–2–b–(1). Reviewing recombinant DNA research conducted at or sponsored by the institution for compliance with the NIH Guidelines as specified in Section III, Experiments Covered by the NIH Guidelines, and approving those research projects that are found to conform with the NIH Guidelines. This review shall include: . . . (iii) ensuring that all aspects of Appendix M have been appropriately addressed by the Principal Investigator; (iv) ensuring that no research participant is enrolled (see definition of enrollment in Section I–E–7) in a human gene transfer experiment until the RAC review process has been completed (see Appendix M–I–B, RAC Review Requirements); (v) for human gene transfer protocols selected for public RAC review and discussion, consideration of the issues raised and recommendations made as a result of this review and consideration of the Principal Investigator's response to the RAC recommendations; (vi) ensuring that final IBC approval is granted only after the RAC review process has been completed (see Appendix M–I–B, RAC Review Requirements); and (vii) ensuring compliance with all surveillance, data reporting, and adverse reporting requirements set forth in the NIH Guidelines.''

''Section IV–B–7. Principal Investigator (PI). . .

''Section IV–B–7–b. Information to Be Submitted by the Principal Investigator to NIH OBA

''The Principal Investigator shall: . . . .

''Section IV–B–7–b–(6). Ensure that all aspects of Appendix M have been appropriately addressed prior to the submission of a human gene transfer experiment to NIH OBA, and provide a letter signed by the Principal Investigator(s) on institutional letterhead acknowledging that the documentation being submitted to NIH OBA complies with the requirements set forth in Appendix M. No research participant shall be enrolled (see definition of enrollment in Section I–E–7) in a human gene transfer experiment until the RAC review process has been completed (see Appendix M–I–B, RAC Review Requirements); IBC approval (from the clinical trial site) has been obtained; Institutional Review Board (IRB) approval has been obtained; and all applicable regulatory authorization(s) have been obtained.

''For a clinical trial site that is added after the RAC review process, no research participant shall be enrolled (see definition of enrollment in Section I–E–7) at the clinical trial site until the following documentation has been submitted to NIH OBA: (1) IBC approval (from the clinical trial site); (2) IRB approval; (3) IRB-approved informed consent document; and (4) curriculum vitae of the principal investigator(s) (no more than two pages in biographical sketch format). . . .''

Appendix M. Points To Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA Molecules Into One or More Human Research Participants (Points To Consider)

Note: For the convenience of the reader, those portions of Appendix M that contain amended language, as well as those containing reorganized text, are reprinted below.

Appendix M is amended to read in part:

''Appendix M–I. Requirements for Protocol Submission, Review, and Reporting—Human Gene Transfer Experiments

''Appendix M–I–A. Requirements for Protocol Submission

''The following documentation must be submitted (see exemption in Appendix M–VII–A, Footnotes of Appendix M) in printed or electronic form to the: NIH Office of Biotechnology Activities, National Institutes of Health/MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892–7010, Telephone: 301–496–9838, Facsimile: 301–496–9839, E-mail: rosenthg@od.nih.gov. NIH OBA will confirm receipt within three working days after receiving the submission.

''1. A cover letter on institutional letterhead, signed by the Principal Investigator(s), that: (1) acknowledges that the documentation submitted to NIH OBA complies with the requirements set forth in Appendix M–I–A, Requirements for Protocol Submission; (2) identifies the Institutional Biosafety Committee (IBC) and Institutional Review Board (IRB) at the proposed clinical trial site(s) responsible for local review and approval of the protocol; and (3) acknowledges that no research participant will be enrolled (see definition of enrollment in Section I–E–7) until the RAC review process has been completed (see Appendix M–I–B, RAC Review Requirements); IBC approval (from the clinical trial site) has been obtained; IRB approval has been obtained; and all applicable regulatory authorizations have been obtained.

''2. The scientific abstract.

''3. The non-technical abstract.

''4. The proposed clinical protocol, including tables, figures, and relevant manuscripts.

''5. Responses to Appendices M–II through M–V, Description of the Proposal, Informed Consent, Privacy and Confidentiality, and Special Issues. Responses to Appendices M–II through M–V may be provided either as an appendix to the clinical protocol or incorporated in the clinical protocol. If responses to Appendices M–II through M–V are incorporated in the clinical protocol, each response must refer to the appropriate Appendix M–II through M–V.

''6. The proposed informed consent document (see Appendix M–III, Informed Consent).

''7. Curricula vitae of the principal investigator(s) (no more than two pages in biographical sketch format).

Note: A human gene transfer experiment submitted to NIH OBA should not contain

confidential commercial information or trade secrets, enabling all aspects of the review to be open to the public.

''Appendix M–I–B. RAC Review Requirements

''Appendix M–I–B–1. Initial RAC Review

''The initial RAC review process shall include a determination as to whether the human gene transfer experiment presents characteristics that warrant public RAC review and discussion. During the RAC's initial review, individual committee members may request additional information relevant to the protocol. NIH OBA will immediately notify the Principal Investigator(s) of RAC requests for additional information. In making a determination whether an experiment presents characteristics warranting public RAC review and discussion, reviewers will examine the scientific rationale, scientific content, whether the preliminary in vitro and in vivo safety data were obtained in appropriate models and are sufficient, and whether questions related to relevant social and ethical issues have been resolved. Other factors that may warrant public review and discussion of a human gene transfer experiment by the RAC include: (1) a new vector/new gene delivery system; (2) a new clinical application; (3) a unique application of gene transfer; and/or (4) other issues considered to require further public discussion.

''Initial RAC review shall be completed within 15 working days of receipt of a complete submission (see Appendix M–I–A, Requirements for Protocol Submission). At the end of the15-day review period, NIH OBA will notify the Principal Investigator(s) in writing about the results of the RAC's initial review. Two outcomes are possible: (1) the experiment does not present characteristics that warrant further review and discussion and is therefore exempt from public RAC review and discussion; or (2) the experiment presents characteristics that warrant public RAC review and discussion. Completion of the RAC review process is defined as: (1) receipt by the Principal Investigator(s) of a letter from NIH OBA indicating that the submission does not present characteristics that warrant public RAC review and discussion; or (2) receipt by the Principal Investigator(s) of a letter from NIH OBA after public RAC review that summarizes the committee's key comments and recommendations (if any).

''If a human gene transfer protocol is submitted less than eight weeks before a scheduled RAC meeting and is subsequently recommended for public RAC review and discussion, the review of the protocol by the RAC will be deferred until the next scheduled RAC meeting. This eight-week period is needed to ensure adequate time for public notice and comment and thorough review by the committee members.

''No research participant shall be enrolled (see definition of enrollment in Section I–E–7) in the human gene transfer experiment until: (1) the RAC review process has been completed; (2) Institutional Biosafety Committee (IBC) approval (from the clinical trial site) has been obtained; (3) Institutional Review Board (IRB) approval has been obtained; and (4) all applicable regulatory authorization(s) have been obtained.

''For a clinical trial site that is added after the RAC review process, no research participant shall be enrolled (see definition of enrollment in Section I–E–7) at the clinical trial site until the following documentation has been submitted to NIH OBA: (1) IBC approval (from the clinical trial site); (2) IRB approval; (3) IRB-approved informed consent document; and (4) curriculum vitae of the principal investigator(s) (no more than two pages in biographical sketch format).''

''Appendix M–I–B–2. Public RAC Review and Discussion

''Public RAC review and discussion of a human gene transfer experiment may be: (1) initiated by the NIH Director; or (2) initiated by the NIH OBA Director following a recommendation to NIH OBA by: (a) three or more RAC members; or (b) a Federal agency other than NIH. In making a determination whether an experiment presents characteristics warranting public RAC review and discussion, reviewers will examine the scientific rationale, scientific content, whether the preliminary in vitro and in vivo safety data were obtained in appropriate models and are sufficient, and whether questions related to relevant social and ethical issues have been resolved. Other factors that may warrant public review and discussion of a human gene transfer experiment by the RAC include: (1) a new vector/new gene delivery system; (2) a new clinical application; (3) a unique application of gene transfer; and/or (4) other issues considered to require further public discussion.

''After a human gene transfer experiment is reviewed by the full RAC at a regularly scheduled meeting, NIH OBA will send a letter summarizing the RAC key comments and recommendations (if any) regarding the protocol to the NIH Director, the Principal Investigator, the sponsoring institution, and other DHHS components, as appropriate. Completion of RAC review is defined as receipt by the Principal Investigator(s) of a letter from NIH OBA that summarizes the committee's findings. Unless NIH OBA determines that there are exceptional circumstances, the RAC summary letter will be sent to the Principal Investigator(s) within 10 working days after the completion of the RAC meeting at which the experiment was reviewed.

''RAC meetings will be open to the public except where trade secrets or confidential commercial information are reviewed. To enable all aspects of the protocol review process to be open to the public, information provided in response to Appendix M should not contain trade secrets or confidential commercial information. No application submitted to NIH OBA shall be designated as 'confidential' in its entirety. In the event that an investigator determines that specific responses to one or more of the items described in Appendix M should be considered as confidential commercial information or a trade secret, each item must be clearly identified as such. The cover letter (attached to the submitted material) shall: (1) clearly designate the information that is considered as confidential commercial information or a trade secret; and (2) explain and justify each designation.''

''Appendix M–I–C. Reporting Requirements

''Appendix M–I–C–1. Initiation of the Clinical Investigation

''No later than 20 working days after enrollment (see definition of enrollment in Section I–E–7) of the first research participant on a human gene transfer experiment, the Principal Investigator(s) shall submit the following documentation to NIH OBA: (1) a copy of the informed consent document approved by the Institutional Review Board (IRB); (2) a copy of the protocol approved by the Institutional Biosafety Committee (IBC) and IRB; (3) a copy of the final IBC approval from the clinical trial site; (4) a copy of the final IRB approval; (5) a brief written report that includes the following information: (a) how the investigator(s) responded to each of the RAC's recommendations on the protocol (if applicable); and (b) any modifications to the protocol as required by FDA; (6) applicable NIH grant number(s); (7) the FDA Investigational New Drug Application (IND) number; and (8) the date of the initiation of the trial. The purpose of requesting the FDA IND number is for facilitating interagency collaboration in the Federal oversight of human gene transfer research.''

''Appendix M–I–C–2. Additional Clinical Trial Sites

''No research participant shall be enrolled (see definition of enrollment in Section I–E–7) at a clinical trial site until the following documentation has been submitted to NIH OBA: (1) Institutional Biosafety Committee approval (from the clinical trial site); (2) Institutional Review Board approval; (3) Institutional Review Board-approved informed consent document; (4) curriculum vitae of the principal investigator(s) (no more than two pages in biographical sketch format); and (5) NIH grant number(s) if applicable.''

''Appendix M–I–C–3. Annual Reporting

''Investigators shall comply with annual data reporting requirements. Annual data report forms will be forwarded by NIH OBA to investigators. Information submitted in these annual reports will be evaluated by NIH OBA and the RAC, and possibly considered at a future RAC meeting. Information obtained through the annual data reporting process will be included in the NIH Human Gene Transfer Information System to: (1) provide clinical trial information; (2) provide administrative details of protocol registration; (3) provide annual status reports of protocols; (4) facilitate risk assessment of individual applications of human gene transfer; and (5) enhance public awareness of relevant scientific, safety, social, and ethical issues.''

''Appendix M–I–C–4. Serious Adverse Event Reporting

''Investigators who have received authorization from FDA to initiate a human gene transfer protocol must report any

serious adverse event immediately to the local Institutional Review Board, Institutional Biosafety Committee, Office for Human Research Protections (if applicable), and NIH OBA, followed by the submission of a written report filed with each group. Reports submitted to NIH OBA shall be sent to the Office of Biotechnology Activities, National Institutes of Health/MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892–7010, (301) 496–9838.''

''Appendix M–II. Description of Proposal . . .''

''Appendix M–III. Informed Consent . . .

''M–III–B. Informed Consent Document

''Submission of a human gene transfer experiment to NIH OBA must include a copy of the proposed informed consent document. A separate informed consent document should be used for the gene transfer portion of a research project when gene transfer is used as an adjunct in the study of another technique, e.g., when a gene is used as a ''marker'' or to enhance the power of immunotherapy for cancer. . . .''

''Appendix M–IV. Privacy and Confidentiality . . .''

''Appendix M–V. Special Issues . . .''

Appendix M–VI, RAC Review—Human Gene Transfer Experiments has been incorporated into new Appendix M–I–B, RAC Review Requirements.

Appendix M–VII, Reporting Requirements, has been incorporated into new Appendix M–I–C, Reporting Requirements.

Appendix VIII, Footnotes of Appendix M, will be renumbered to Appendix VI.

* * * * *

OMB's ''Mandatory Information Requirements for Federal Assistance Program Announcements'' (45 FR 39592) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally, NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers virtually every NIH and Federal research program in which recombinant DNA techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

Dated: September 30, 2000.

Ruth L. Kirschstein,

Principal Deputy Director, National Institutes of Health.

[FR Doc. 00–25891 Filed 10–6–00; 8:45 am]

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Federal Register

Tuesday,
October 10, 2000

Part VII

Department of Transportation

Federal Aviation Administration

14 CFR Parts 61, 63, 65, 108, 121, and 135

Advanced Qualification Program; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 61, 63, 65, 108, 121, and 135

[Docket No. FAA–2000–7497; Amendment No. 61–107, 63–30, 65–41, 108–18, 121–280 and 135–78]

RIN 2120–AH01

Advanced Qualification Program

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is establishing a new termination date for Special Federal Aviation Regulation (SFAR) No. 58 (55 FR 40275; October 2, 1990), which provides for the approval of an alternate method (known as ''Advanced Qualification Program'' or ''AQP'') for qualifying, training and certifying, and otherwise ensuring the competency of crewmembers, aircraft dispatchers, other operations personnel, instructors, and evaluators who are required to be trained or qualified under 14 CFR parts 121 and 135. This action will establish a new termination date, October 2, 2005, for SFAR 58 to allow time for the FAA to complete the rulemaking process that will incorporate SFAR 58 into the Federal Aviation Regulations.

DATES: Effective October 2, 2000.

FOR FURTHER INFORMATION CONTACT: Thomas M. Longridge, Advanced Qualification Program Branch, AFS–230, Air Transportation Division, Flight Standards Service, Federal Aviation Administration, P.O. Box 20027, Dulles International Airport, Washington, DC 20041–2027; telephone (703) 661–0260.

SUPPLEMENTARY INFORMATION:

Availability of Final Rules

An electronic copy of this document may be downloaded using a modem and suitable communications software from the FAA regulations section of the FedWorld electronic bulletin board service (telephone: (703) 321–3339) of the Government Printing Office's (GPO) electronic bulletin board service (telephone: (202) 512–1661).

Internet users may reach the FAA's web page at http://www.faa.gov/avr/arm/nprm/nprm.htm or the GPO's web page at http://www.access.gpo.gov/nara for access to recently published rulemaking documents.

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM– 1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Communications must identify the amendment number or docket number of this final rule.

Persons interested in being placed on the mailing list for future rulemaking documents should request from the above office a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996, requires the FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. Therefore, any small entity that has a question regarding this document may contact their local FAA official. Internet users can find additional information on SBREFA on the FAA's web page at http://www.faa.gov/avr/arm/sbrefa.htm and may send electronic inquiries to the following Internet address: 9–AWA–SBREFA@faa.gov.

Background

On June 8, 2000, the FAA issued a notice of proposed rulemaking (NPRM) proposing to extend the expiration date of SFAR 58 (65 FR 37836; June 16, 2000). The comment period closed on July 17, 2000, and no comments were received. The amendment is adopted as proposed.

Good Cause Justification for Immediate Adoption

The reasons that justified the original issuance of SFAR 58 still exist. Therefore, it is in the public interest to establish a new expiration date for SFAR 58 of October 2, 2005. If the FAA publishes a final rule incorporating SFAR 58 into the regulations before this expiration date, SFAR 58 will be rescinded concurrently. Ordinarily under the Administrative Procedure Act, a substantive rule must be served or published not less than 30 days before its effective date except, among other things, if the agency finds ''good cause'' for making it effective sooner. See 5 U.S.C. Section 553(d)(3). The FAA finds that the continuation of SFAR 58 is necessary to permit continued training under this program and to avoid the confusion that would result if the program were discontinued or temporarily suspended because of the general legal requirement to publish a rule at least 30 days before it becomes effective.

For these reasons, and because as a voluntary program AQP imposes no additional burden on any person, the FAA finds ''good cause'' for making this amendment, which extends the termination date for the SFAR by 5 years, effective immediately upon issuance.

Economic Summary

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs each Federal agency to propose or adopt a regulation only if the agency makes a reasoned determination that the benefits of the regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 required agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. section 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards. The Trade Act directs agencies, where appropriate, to use those international standards as the basis of U.S. standards. And fourth, the Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules. This requirement applies only to rules that include a Federal mandate on State, local, or tribal governments or the private sector, likely to result in a total expenditure of $100 million or more in any one year (adjusted for inflation). In conducting these analyses, FAA had determined this rule: (1) Has benefits that justify its costs, is not a ''significant regulatory action'' as defined in the Executive Order, and is not ''significant'' as defined in DOT's Regulatory Policies and Procedures; (2) will not have a significant impact on a substantial number of small entities; (3) has no impact on international trade; and (4) does not impose an unfunded mandate on state, local, or tribal governments or on the private sector.

AQP is not mandatory; consequently, those operators who choose to participate in the program would do so only if it was in their best interest. Enough operators have found it in their best interest that AQP has become an important means for meeting the requirements for air carrier training programs. AQP gives air carriers flexibility in meeting the safety goals of the training programs in 14 CFR parts 121 and 135 without sacrificing any of the safety benefits derived from those programs. Thus, extending AQP for another 5 years will not impose any additional costs nor decrease the

present level of safety. Because this final rule extends an existing, voluntary program that has become an important means for some operators to comply with training requirements, the FAA finds that a detailed regulatory evaluation is not necessary.

Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation.'' To achieve that principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

This rulemaking allows certain air carriers to continue participating in a voluntary, alternative method for qualifying, training and certifying, and otherwise ensuring competency of crewmembers, aircraft dispatchers, and other operational personnel, instructors, and evaluators who are required to be trained or qualified under 14 CFR parts 121 and 135. As such, this rulemaking will not impose any additional cost on those air carriers. Consequently, the FAA certifies that the rule will not have a significant economic impact on a substantial number of small air carriers.

International Trade Impact Analysis

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. In addition, consistent with the Administration's belief in the general superiority and desirability of free trade, it is the policy of the Administration to remove or diminish to the extent feasible, barriers to international trade, including both barriers affecting the export of American goods and services to foreign countries and barriers affecting the import of foreign goods and services into the United States.

In accordance with the above statute and policy, the FAA has assessed the potential effect of this final rule and has determined that it will have only a domestic impact and therefore no affect on any trade-sensitive activity.

Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. The FAA has determined that this action will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the FAA has determined that this final rule will not have federalism implications.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a ''significant intergovernmental mandate.'' A ''significant intergovernmental mandate'' under the Act is any provision in a Federal agency regulation that will impose an enforceable duty upon State, local, and tribal governments, in the aggregate, of $100 million (adjusted annually for inflation) in any one year. Section 203 of the Act, 2 U.S.C. 1553, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

The FAA determines that this final rule does not contain a significant intergovernmental or private sector mandate as defined by the Act.

International Trade

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activity that crate unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards. In addition, consistent with the Administration's belief in the general superiority and desirability of free trade, it is the policy of the Administration to remove or diminish, to the extent feasible, barriers to international trade, including both barriers affecting the export of American goods and services to foreign countries and barriers affecting the import of foreign goods and services to into the U.S.

In accordance with the above statute and policy, the FAA has assessed the potential effect of this final rule and has determined that it will have only a domestic impact and therefore no affect on any trade-sensitive activity.

Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j), this rulemaking action qualifies for categorical exclusion.

Energy Impact

The energy impact of the notice has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) Pub. L. 94–163, as amended (42 U.S.C. 6362) and FAA Order 1053.1. It has been determined that the final rule is not a major regulatory action under the provisions of the EPCA.

List of Subjects

14 CFR Part 61

Air safety, Air transportation, Aviation safety, Safety.

14 CFR Part 63

Air safety, Air transportation, Airmen, Aviation safety, Safety, Transportation.

14 CFR Part 65

Airman, Aviation safety, Air transportation, Aircraft.

14 CFR Part 108

Airplane operation security, Aviation security, Aviation safety, Air transportation, Air carriers, Airlines, Security measures, Transportation, Weapons.

14 CFR Part 121

Aircraft pilots, Airmen, Aviation safety, Pilots, Safety.

14 CFR Part 135

Air carriers, Air transportation, Airmen, Aviation safety, Safety, Pilots.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends SFAR 58 (14 CFR parts 61, 63, 65, 108, 121, and 135) of Title 14, Code of Federal Regulations, as folows:

1. The authority citation for part 61 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44703, 44707, 44709–44711, 45102–45103, 45301–45303.

2. The authority citation for part 63 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40108, 40113, 44701–44703, 44710, 44712, 44714, 44716, 44717, 44722, 45303.

3. The authority citation for part 65 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44703, 44707, 44709–44711, 45102–45103, 45301–45302.

4. The authority citation for part 108 continues to read as follows:

Authority: 49 U.S.C. 106(g); 5103, 40113, 40119, 44701–44702, 44705, 44901–44905, 44907, 44913–44914, 44932, 44935–44936, 46105.

5. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 40119, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901, 44903–44904, 449112, 46105.

6. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722.

7. In part 121, SFAR 58 is amended by revising paragraph 13 to read as follows:

Special Federal Aviation Regulation No. 58—Advanced Qualification Program

* * * * *

13. Expiration. This Special Federal Aviation Regulation terminates on October 2, 2005, unless sooner terminated.

Issued in Washington, DC, on September 29, 2000.

Jane F. Garvey,

Administrator.

[FR Doc. 00–25632 Filed 10–6–00; 8:45 am]

BILLING CODE 4910–13–M

Federal Register

Tuesday,
October 10, 2000

Part VIII

Department of Education

Office of Special Education Programs; Notice of Extension; Notice

DEPARTMENT OF EDUCATION

Office of Special Education Programs; Notice of Extension

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of Extension.

SUMMARY: On August 29, 2000, a notice inviting applications for new awards for Grant Applications under Part D, Subpart 2 of the Individuals with Disabilities Education Act (IDEA) was published in the **Federal Register** (65 FR 52618—52628). The notice included an absolute priority for Accessible Media for Students with Visual Impairments and Print Disabilities (84.327K), shown on page 52624, which requires clarification. This notice provides a clarification and extends the deadline for transmittal of applications for Accessible Media for Students with Visual Impairments and Print Disabilities only.

The notice published on August 29, 2000 contained a requirement that, to be considered for funding under the Accessible Media for Students with Visual Impairments and Print Disabilities priority, the project must handle requests for educational materials from students who are visually or print disabled at all educational levels without charging for materials or membership fees. This notice clarifies that the grantee may not charge students or their families a membership fee or charge them fees for educational materials at any educational level that are produced with funds received under this priority. However, the grantee may charge schools, State or local educational agencies, or other educational entities participating in this program, at any educational level, a membership fee or charge them fees for educational materials that are produced with funds received under this priority. Institutions that are charged membership fees cannot pass on these fees or other costs related to obtaining educational materials to students or families.

Deadline for Transmittal of Applications: The deadline has been extended to November 3, 2000.

Deadline for Intergovernmental Review: The deadline has been extended to January 2, 2001.

FOR FURTHER INFORMATION CONTACT: Lynel McFadden, telephone: (202) 205–9095. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–9136. Internet: *Lynel_McFadden@ed.gov*

Individuals with disabilities may obtain this document in an alternate format (*e.g.,* Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

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Program Authority: 20 U.S.C. 1487.

Dated: October 5, 2000.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 00–25997 Filed 10–6–00; 8:45 am]

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The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.J. Res. 109/P.L. 106–275

Making continuing appropriations for the fiscal year 2001, and for other purposes. (Sept. 29, 2000; 114 Stat. 808)

S. 1638/P.L. 106–276

To amend the Omnibus Crime Control and Safe Streets Act of 1968 to extend the retroactive eligibility dates for financial assistance for higher education for spouses and dependent children of Federal, State, and local law enforcement officers who are killed in the line of duty. (Oct. 2, 2000; 114 Stat. 812)

S. 2460/P.L. 106–277

To authorize the payment of rewards to individuals furnishing information relating to persons subject to indictment for serious violations of international humanitarian law in Rwanda, and for other purposes. (Oct. 2, 2000; 114 Stat. 813)

Last List September 28, 2000

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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–038–00001–3)	6.50	Apr. 1, 2000
3 (1997 Compilation and Parts 100 and 101)	(869–042–00002–1)	22.00	[1] Jan. 1, 2000
4	(869–042–00003–0)	8.50	Jan. 1, 2000
5 Parts:			
1–699	(869–042–00004–8)	43.00	Jan. 1, 2000
700–1199	(869–042–00005–6)	31.00	Jan. 1, 2000
1200–End, 6 (6 Reserved)	(869–042–00006–4)	48.00	Jan. 1, 2000
7 Parts:			
1–26	(869–042–00007–2)	28.00	Jan. 1, 2000
27–52	(869–042–00008–1)	35.00	Jan. 1, 2000
53–209	(869–042–00009–9)	22.00	Jan. 1, 2000
210–299	(869–042–00010–2)	54.00	Jan. 1, 2000
300–399	(869–042–00011–1)	29.00	Jan. 1, 2000
400–699	(869–042–00012–9)	41.00	Jan. 1, 2000
700–899	(869–042–00013–7)	37.00	Jan. 1, 2000
900–999	(869–042–00014–5)	46.00	Jan. 1, 2000
1000–1199	(869–042–00015–3)	18.00	Jan. 1, 2000
1200–1599	(869–042–00016–1)	44.00	Jan. 1, 2000
1600–1899	(869–042–00017–0)	61.00	Jan. 1, 2000
1900–1939	(869–042–00018–8)	21.00	Jan. 1, 2000
1940–1949	(869–042–00019–6)	37.00	Jan. 1, 2000
1950–1999	(869–042–00020–0)	38.00	Jan. 1, 2000
2000–End	(869–042–00021–8)	31.00	Jan. 1, 2000
8	(869–042–00022–6)	41.00	Jan. 1, 2000
9 Parts:			
1–199	(869–042–00023–4)	46.00	Jan. 1, 2000
200–End	(869–042–00024–2)	44.00	Jan. 1, 2000
10 Parts:			
1–50	(869–042–00025–1)	46.00	Jan. 1, 2000
51–199	(869–042–00026–9)	38.00	Jan. 1, 2000
200–499	(869–042–00027–7)	38.00	Jan. 1, 2000
500–End	(869–042–00028–5)	48.00	Jan. 1, 2000
11	(869–042–00029–3)	23.00	Jan. 1, 2000
12 Parts:			
1–199	(869–042–00030–7)	18.00	Jan. 1, 2000
200–219	(869–042–00031–5)	22.00	Jan. 1, 2000
220–299	(869–042–00032–3)	45.00	Jan. 1, 2000
300–499	(869–042–00033–1)	29.00	Jan. 1, 2000
500–599	(869–042–00034–0)	26.00	Jan. 1, 2000
600–End	(869–042–00035–8)	53.00	Jan. 1, 2000
13	(869–042–00036–6)	35.00	Jan. 1, 2000
14 Parts:			
1–59	(869–042–00037–4)	58.00	Jan. 1, 2000
60–139	(869–042–00038–2)	46.00	Jan. 1, 2000
140–199	(869–038–00039–1)	17.00	[4] Jan. 1, 2000
200–1199	(869–042–00040–4)	29.00	Jan. 1, 2000
1200–End	(869–042–00041–2)	25.00	Jan. 1, 2000
15 Parts:			
0–299	(869–042–00042–1)	28.00	Jan. 1, 2000
300–799	(869–042–00043–9)	45.00	Jan. 1, 2000
800–End	(869–042–00044–7)	26.00	Jan. 1, 2000
16 Parts:			
0–999	(869–042–00045–5)	33.00	Jan. 1, 2000
1000–End	(869–042–00046–3)	43.00	Jan. 1, 2000
17 Parts:			
1–199	(869–042–00048–0)	32.00	Apr. 1, 2000
200–239	(869–042–00049–8)	38.00	Apr. 1, 2000
240–End	(869–042–00050–1)	49.00	Apr. 1, 2000
18 Parts:			
1–399	(869–042–00051–0)	54.00	Apr. 1, 2000
400–End	(869–042–00052–8)	15.00	Apr. 1, 2000
19 Parts:			
1–140	(869–042–00053–6)	40.00	Apr. 1, 2000
141–199	(869–042–00054–4)	40.00	Apr. 1, 2000
200–End	(869–042–00055–2)	20.00	Apr. 1, 2000
20 Parts:			
1–399	(869–042–00056–1)	33.00	Apr. 1, 2000
400–499	(869–042–00057–9)	56.00	Apr. 1, 2000
500–End	(869–042–00058–7)	58.00	[7] Apr. 1, 2000
21 Parts:			
1–99	(869–042–00059–5)	26.00	Apr. 1, 2000
100–169	(869–042–00060–9)	30.00	Apr. 1, 2000
170–199	(869–042–00061–7)	29.00	Apr. 1, 2000
200–299	(869–042–00062–5)	13.00	Apr. 1, 2000
300–499	(869–042–00063–3)	20.00	Apr. 1, 2000
500–599	(869–042–00064–1)	31.00	Apr. 1, 2000
600–799	(869–038–00065–0)	10.00	Apr. 1, 2000
800–1299	(869–042–00066–8)	38.00	Apr. 1, 2000
1300–End	(869–042–00067–6)	15.00	Apr. 1, 2000
22 Parts:			
1–299	(869–042–00068–4)	54.00	Apr. 1, 2000
300–End	(869–042–00069–2)	31.00	Apr. 1, 2000
23	(869–042–00070–6)	29.00	Apr. 1, 2000
24 Parts:			
0–199	(869–042–00071–4)	40.00	Apr. 1, 2000
200–499	(869–042–00072–2)	37.00	Apr. 1, 2000
500–699	(869–042–00073–1)	20.00	Apr. 1, 2000
700–1699	(869–042–00074–9)	46.00	Apr. 1, 2000
1700–End	(869–042–00075–7)	18.00	[5] Apr. 1, 2000
25	(869–042–00076–5)	52.00	Apr. 1, 2000
26 Parts:			
§§ 1.0-1–1.60	(869–042–00077–3)	31.00	Apr. 1, 2000
§§ 1.61–1.169	(869–042–00078–1)	56.00	Apr. 1, 2000
§§ 1.170–1.300	(869–042–00079–0)	38.00	Apr. 1, 2000
§§ 1.301–1.400	(869–042–00080–3)	29.00	Apr. 1, 2000
§§ 1.401–1.440	(869–042–00081–1)	47.00	Apr. 1, 2000
§§ 1.441-1.500	(869-042-00082-0)	36.00	Apr. 1, 2000
§§ 1.501–1.640	(869–042–00083–8)	32.00	Apr. 1, 2000
§§ 1.641–1.850	(869–042–00084–6)	41.00	Apr. 1, 2000
§§ 1.851–1.907	(869–042–00085–4)	43.00	Apr. 1, 2000
§§ 1.908–1.1000	(869–042–00086–2)	41.00	Apr. 1, 2000
§§ 1.1001–1.1400	(869–042–00087–1)	45.00	Apr. 1, 2000
§§ 1.1401–End	(869–042–00088–9)	66.00	Apr. 1, 2000
2–29	(869–042–00089–7)	45.00	Apr. 1, 2000
30–39	(869–042–00090–1)	31.00	Apr. 1, 2000
40–49	(869–042–00091–9)	18.00	Apr. 1, 2000
50–299	(869–042–00092–7)	23.00	Apr. 1, 2000
300–499	(869–042–00093–5)	43.00	Apr. 1, 2000
500–599	(869–042–00094–3)	12.00	Apr. 1, 2000
600–End	(869–042–00095–1)	12.00	Apr. 1, 2000
27 Parts:			
1–199	(869–042–00096–0)	59.00	Apr. 1, 2000

Title	Stock Number	Price	Revision Date
200–End	(869–042–00097–8)	18.00	Apr. 1, 2000
28 Parts:			
0-42	(869–038–00098–9)	39.00	July 1, 1999
43-end	(869-042-00099-4)	36.00	July 1, 2000
29 Parts:			
0–99	(869–042–00100–1)	33.00	July 1, 2000
100–499	(869–038–00101–2)	13.00	July 1, 1999
500–899	(869–038–00102–1)	40.00	[7] July 1, 1999
900–1899	(869–042–00103–6)	24.00	July 1, 2000
1900–1910 (§§ 1900 to 1910.999)	(869–042–00104–4)	46.00	[6]July 1, 2000
1910 (§§ 1910.1000 to end)	(869–042–00105–2)	28.00	[6]July 1, 2000
1911–1925	(869–042–00106–1)	20.00	July 1, 2000
1926	(869–042–00107–9)	30.00	[6]July 1, 2000
1927–End	(869–038–00108–0)	43.00	July 1, 1999
30 Parts:			
1–199	(869–038–00109–8)	35.00	July 1, 1999
200–699	(869–042–00110–9)	33.00	July 1, 2000
700–End	(869–042–00111–7)	39.00	July 1, 2000
31 Parts:			
0–199	(869–038–00112–8)	21.00	July 1, 1999
*200–End	(869–042–00113–3)	53.00	July 1, 2000
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–038–00114–4)	46.00	July 1, 1999
191–399	(869–038–00115–2)	55.00	July 1, 1999
400–629	(869–038–00116–1)	32.00	July 1, 1999
630–699	(869–042–00117–6)	25.00	July 1, 2000
700–799	(869–042–00118–4)	31.00	July 1, 2000
*800–End	(869–042–00119–2)	32.00	July 1, 2000
33 Parts:			
*1–124	(869–042–00120–6)	35.00	July 1, 2000
125–199	(869–038–00121–7)	41.00	July 1, 1999
200–End	(869–038–00122–5)	33.00	July 1, 1999
34 Parts:			
1–299	(869–038–00123–3)	28.00	July 1, 1999
300–399	(869–042–00124–9)	28.00	July 1, 2000
400–End	(869–038–00125–0)	46.00	July 1, 1999
35	(869–042–00126–5)	10.00	July 1, 2000
36 Parts			
1–199	(869–042–00127–3)	24.00	July 1, 2000
200–299	(869–042–00128–1)	24.00	July 1, 2000
300–End	(869–038–00129–2)	38.00	July 1, 1999
37	(869–038–00130–6)	29.00	July 1, 1999
38 Parts:			
0–17	(869–042–00131–1)	40.00	July 1, 2000
18–End	(869–042–00132–0)	47.00	July 1, 2000
39	(869–042–00133–8)	28.00	July 1, 2000
40 Parts:			
1–49	(869–042–00134–6)	37.00	July 1, 2000
*50–51	(869–042–00135–4)	28.00	July 1, 2000
*52 (52.01–52.1018)	(869–042–00136–2)	36.00	July 1, 2000
52 (52.1019–End)	(869–038–00137–3)	37.00	July 1, 1999
53–59	(869–038–00138–1)	19.00	July 1, 1999
60	(869–038–00139–0)	59.00	July 1, 1999
61–62	(869–038–00140–3)	19.00	July 1, 1999
*63 (63.1–63.1119)	(869–042–00141–9)	66.00	July 1, 2000
*63 (63.1200–End)	(869–042–00142–7)	49.00	July 1, 2000
64–71	(869–042–00143–5)	12.00	July 1, 2000
72–80	(869–038–00144–6)	41.00	July 1, 1999
81–85	(869–038–00145–4)	33.00	July 1, 1999
86	(869–038–00146–2)	59.00	July 1, 1999
87-135	(869–038–00146–1)	53.00	July 1, 1999
136–149	(869–038–00148–9)	40.00	July 1, 1999
150–189	(869–038–00149–7)	35.00	July 1, 1999
190–259	(869–042–00150–8)	25.00	July 1, 2000
260–265	(869–038–00151–9)	32.00	July 1, 1999
266–299	(869–038–00152–7)	33.00	July 1, 1999
300–399	(869–038–00153–5)	26.00	July 1, 1999
400–424	(869–042–00154–1)	37.00	July 1, 2000
425–699	(869–038–00155–1)	44.00	July 1, 1999
700–789	(869–038–00156–0)	42.00	July 1, 1999
790–End	(869–042–00157–5)	23.00	[6]July 1, 2000
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
*1–100	(869–042–00158–3)	15.00	July 1, 2000
101	(869–038–00159–4)	39.00	July 1, 1999
102–200	(869–042–00160–5)	21.00	July 1, 2000
*201–End	(869–042–00161–3)	16.00	July 1, 2000
42 Parts:			
1–399	(869–038–00162–4)	36.00	Oct. 1, 1999
400–429	(869–038–00163–2)	44.00	Oct. 1, 1999
430–End	(869–038–00164–1)	54.00	Oct. 1, 1999
43 Parts:			
1–999	(869–038–00165–9)	32.00	Oct. 1, 1999
1000–end	(869–038–00166–7)	47.00	Oct. 1, 1999
44	(869–038–00167–5)	28.00	Oct. 1, 1999
45 Parts:			
1–199	(869–038–00168–3)	33.00	Oct. 1, 1999
200–499	(869–038–00169–1)	16.00	Oct. 1, 1999
500–1199	(869–038–00170–5)	30.00	Oct. 1, 1999
1200–End	(869–038–00171–3)	40.00	Oct. 1, 1999
46 Parts:			
1–40	(869–038–00172–1)	27.00	Oct. 1, 1999
41–69	(869–038–00173–0)	23.00	Oct. 1, 1999
70–89	(869–038–00174–8)	8.00	Oct. 1, 1999
90–139	(869–038–00175–6)	26.00	Oct. 1, 1999
140–155	(869–038–00176–4)	15.00	Oct. 1, 1999
156–165	(869–038–00177–2)	21.00	Oct. 1, 1999
166–199	(869–038–00178–1)	27.00	Oct. 1, 1999
200–499	(869–038–00179–9)	23.00	Oct. 1, 1999
500–End	(869–038–00180–2)	15.00	Oct. 1, 1999
47 Parts:			
0–19	(869–038–00181–1)	39.00	Oct. 1, 1999
20–39	(869–038–00182–9)	26.00	Oct. 1, 1999
40–69	(869–038–00183–7)	26.00	Oct. 1, 1999
70–79	(869–038–00184–5)	39.00	Oct. 1, 1999
80–End	(869–038–00185–3)	40.00	Oct. 1, 1999
48 Chapters:			
1 (Parts 1–51)	(869–038–00186–1)	55.00	Oct. 1, 1999
1 (Parts 52–99)	(869–038–00187–0)	30.00	Oct. 1, 1999
2 (Parts 201–299)	(869–038–00188–8)	36.00	Oct. 1, 1999
3–6	(869–038–00189–6)	27.00	Oct. 1, 1999
7–14	(869–038–00190–0)	35.00	Oct. 1, 1999
15–28	(869–038–00191–8)	36.00	Oct. 1, 1999
29–End	(869–038–00192–6)	25.00	Oct. 1, 1999
49 Parts:			
1–99	(869–038–00193–4)	34.00	Oct. 1, 1999
100–185	(869–038–00194–2)	53.00	Oct. 1, 1999
186–199	(869–038–00195–1)	13.00	Oct. 1, 1999
200–399	(869–038–00196–9)	53.00	Oct. 1, 1999
400–999	(869–038–00197–7)	57.00	Oct. 1, 1999
1000–1199	(869–038–00198–5)	17.00	Oct. 1, 1999
1200–End	(869–038–00199–3)	14.00	Oct. 1, 1999
50 Parts:			
1–199	(869–038–00200–1)	43.00	Oct. 1, 1999
200–599	(869–038–00201–9)	22.00	Oct. 1, 1999

Title	Stock Number	Price	Revision Date
600–End	(869–038–00202–7)	37.00	Oct. 1, 1999
CFR Index and Findings Aids	(869–042–00047–1)	53.00	Jan. 1, 2000
Complete 1999 CFR set		951.00	1999
Microfiche CFR Edition:			
Subscription (mailed as issued)		290.00	1999
Individual copies		1.00	1999
Complete set (one-time mailing)		247.00	1997
Complete set (one-time mailing)		264.00	1996

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 1999, through January 1, 2000. The CFR volume issued as of January 1, 1999 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 1999, through April 1, 2000. The CFR volume issued as of April 1, 1999 should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 1999, through July 1, 2000. The CFR volume issued as of July 1, 1999 should be retained.

[7] No amendments to this volume were promulgated during the period July 1, 1998, through July 1, 1999. The CFR volume issued as of July 1, 1998, should be retained.

Editorial Note: The Effective Dates Chart in the issue of Tuesday, October 3, 2000, was incorrectly printed and is being republished as follows:

TABLE OF EFFECTIVE DATES AND TIME PERIODS —OCTOBER 2000

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
Oct 2	Oct 17	Nov 1	Nov 16	Dec 1	Jan 2
Oct 3	Oct 18	Nov 2	Nov 17	Dec 4	Jan 2
Oct 4	Oct 19	Nov 3	Nov 20	Dec 4	Jan 3
Oct 5	Oct 20	Nov 6	Nov 20	Dec 4	Jan 4
Oct 6	Oct 23	Nov 6	Nov 20	Dec 5	Jan 5
Oct 10	Oct 25	Nov 9	Nov 24	Dec 11	Jan 8
Oct 11	Oct 26	Nov 13	Nov 27	Dec 11	Jan 9
Oct 12	Oct 27	Nov 13	Nov 27	Dec 11	Jan 10
Oct 13	Oct 30	Nov 13	Nov 27	Dec 12	Jan 11
Oct 16	Oct 31	Nov 15	Nov 30	Dec 15	Jan 16
Oct 17	Nov 1	Nov 16	Dec 1	Dec 18	Jan 16
Oct 18	Nov 2	Nov 17	Dec 4	Dec 18	Jan 16
Oct 19	Nov 3	Nov 20	Dec 4	Dec 18	Jan 17
Oct 20	Nov 6	Nov 20	Dec 4	Dec 19	Jan 18
Oct 23	Nov 7	Nov 22	Dec 7	Dec 22	Jan 22
Oct 24	Nov 8	Nov 24	Dec 8	Dec 26	Jan 22
Oct 25	Nov 9	Nov 24	Dec 11	Dec 26	Jan 23
Oct 26	Nov 13	Nov 27	Dec 11	Dec 26	Jan 24
Oct 27	Nov 13	Nov 27	Dec 11	Dec 26	Jan 25
Oct 30	Nov 14	Nov 29	Dec 14	Dec 29	Jan 29
Oct 31	Nov 15	Nov 30	Dec 15	Jan 2	Jan 29